

MAR 09 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GERALD CLAIR AIKENS,

Defendant - Appellant.

No. 06-50199

D.C. No. CR-03-00848-RMT

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Robert M. Takasugi, District Judge, Presiding

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Gerald Clair Aikens appeals from the 130-month sentence imposed following his guilty-plea conviction to conspiracy to manufacture more than 100 grams of actual phencyclidine (“PCP”), to aid and abet the manufacture of more

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

than 100 grams of actual PCP, and to distribute more than 100 grams of actual PCP, in violation of 21 U.S.C. §§ 846, 841(a)(1), and 18 U.S.C. § 2. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Aikens' counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record. Appellant has filed a pro se supplemental brief, and the Government has filed an answering brief.

Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80-81 (1988), discloses no arguable grounds for relief on direct appeal.

Accordingly, counsel's motion to withdraw is **GRANTED**, and the district court's judgment is **AFFIRMED**.