

APR 20 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NOT FOR PUBLICATION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.

ELDON LEWIS HUFFINE,

Defendant - Appellant.

No. 07-30396

D.C. No. CR-05-00019-DWM

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted April 5, 2009**

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Eldon Lewis Huffine appeals from the five-month sentence imposed upon revocation of his supervised release. Pursuant to *Anders v. California*, 386 U.S.

* 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).

738 (1967), Huffine's counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record.

By order filed February 4, 2010, counsel was advised that the court appeared to lack jurisdiction over the appeal because appellant has completed his federal sentence without an additional term of supervised release, and has paid his restitution, fine, and special assessment. Counsel was ordered to move for voluntary dismissal or show cause why the appeal should not be dismissed. To date, counsel has not responded.

Because Huffine has completed his federal sentence, we dismiss the appeal as moot. *See United States v. Palomba*, 182 F.3d 1121, 1123 (9th Cir. 1999).

Counsel's motion to withdraw is **GRANTED**, and the appeal is **DISMISSED**.