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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>FAUSTO ANTONIO FABIAN,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 09-10424

D.C. No. 4:09-cr-01082-FRZ

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Frank R. Zapata, District Judge, Presiding

Submitted June 29, 2010**

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Fausto Antonio Fabian appeals from his guilty-plea conviction and 48-month sentence for reentry following deportation, in violation of 8 U.S.C.

§ 1326(a). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Fabians’ counsel has filed a brief stating there are no grounds for relief, along with a motion

* 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).

to withdraw as counsel of record. We have provided the appellant with the opportunity to file a pro se supplemental brief. No pro se supplemental brief of answering brief has been filed.

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**.