

DEC 27 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NOT FOR PUBLICATION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.

FELIPE FERNANDO FAVA-CORELLA,

Defendant - Appellant.

No. 09-50270

D.C. No. 3:08-cr-03986-LAB

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted December 14, 2010**

Before: GOODWIN, WALLACE, and THOMAS, Circuit Judges.

Felipe Fernando Fava-Corella appeals from his 84-month sentence for being a deported alien found in the United States, in violation of 8 U.S.C. § 1326.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Fava-Corella’s counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw

* 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).

as counsel of record. We have provided the appellant with the opportunity to file a pro se supplemental brief. He has filed a supplemental brief and an answering brief has been filed.

The Government's motion to supplement the record pursuant to Rule 10(e) of the Federal Rules of Appellate Procedure is denied. *See United States v. Garcia*, 997 F.2d 1273, 1278 (9th Cir. 1993).

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.

We remand to the district court for the limited purpose of correcting the judgment to reflect that Fava-Corella pled guilty to the indictment, not an information, and that he pled guilty to being a deported alien found in the United States, not attempted entry after deportation.

Counsel's motion to withdraw is **GRANTED**, the district court's judgment is **AFFIRMED**, and the case is **REMANDED** with instructions to correct the judgment.