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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NOT FOR PUBLICATION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>v.</p> <p>ARMANDO GARCIA RICO,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 08-55885

D.C. Nos. 2:07-cv-06246-RMT
2:01-cr-00564-RMT

MEMORANDUM*

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

Submitted December 14, 2010**

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

Federal prisoner Armando Garcia Rico appeals from the district court’s denial of his 28 U.S.C. § 2255 motion for relief. We have jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

* 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).

Rico contends that his trial counsel was ineffective for failing to appeal the district court's sentence following a limited remand under *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005) (en banc). Counsel here did not have a constitutionally imposed duty to consult with Rico about an appeal and therefore did not provide ineffective assistance by not filing an appeal. *See Roe v. Flores-Ortega*, 528 U.S. 470, 480 (2000).

Rico's motion to supplement the record is denied. *See Fed. R. App. P. 10(e); Morrison v. Hall*, 261 F.3d 896, 900 n.4 (9th Cir. 2001).

AFFIRMED.