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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>ADALBERTO GUZMAN-SIU,</p> <p style="text-align: center;">Defendant - Appellant.</p> |
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No. 10-30159

D.C. No. 3:09-cr-05830-RJB

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Robert J. Bryan, District Judge, Presiding

Submitted November 21, 2011**

Before: TASHIMA, BERZON, and TALLMAN, Circuit Judges.

Adalberto Guzman-Siu appeals from his guilty-plea conviction and 97-month aggregate sentence for possession with intent to distribute heroin and cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C), and possession of firearm in furtherance of drug trafficking, in violation of 18 U.S.C. § 924(c)(1)(A).

* 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).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Guzman-Siu's counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record.

In his pro se supplemental brief, Guzman-Siu contends that he is actually innocent of the firearms offense and also asserts an ineffective assistance of counsel claim.

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. With respect to the appeal of the conviction and sentence, we dismiss in light of the valid appeal waiver. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000). We decline to address Guzman-Siu's claim of ineffective assistance of counsel on direct appeal as the record is insufficiently developed and his legal representation was not so inadequate that it can be concluded at this point that he obviously was denied his Sixth Amendment right to counsel. *See United States v. McKenna*, 327 F.3d 830, 845 (9th Cir. 2003) ("Claims of ineffective assistance of counsel are generally inappropriate on direct appeal.").

Counsel's motion to withdraw is **GRANTED**.

DISMISSED.