

DEC 23 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MICHAEL JOSEPH GILBERT,

Defendant - Appellant.

No. 09-30438

D.C. No. 3:09-cr-05123-RBL

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Ronald B. Leighton, District Judge, Presiding

Submitted December 19, 2011\*\*

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

Michael Joseph Gilbert appeals from his guilty-plea conviction and 240-month sentence for production of child pornography, in violation of 18 U.S.C. §§ 2251(a) and (e), and 2256, and receipt of visual depictions of minors engaged in sexually explicit conduct, in violation of 18 U.S.C. §§ 2252(a)(2) and (b)(1), and

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\* 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).

2256. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Gilbert's counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record.

We have provided Gilbert with the opportunity to file a pro se supplemental brief. He has filed a pro se supplemental brief, which we have considered.

Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80-81 (1988), discloses no arguable grounds for relief as to the Gilbert's conviction. We dismiss the appeal of the sentence in light of the valid appeal waiver. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000).

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

The conviction is **AFFIRMED**, and the appeal of the sentence is **DISMISSED**.