

DEC 23 2011

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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NOT FOR PUBLICATION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>FRANCISCO JAVIER ANDRADE- ALVARADO,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 11-10078

D.C. No. 1:10-cr-00309-LJO

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Lawrence J. O’Neill, District Judge, Presiding

Submitted December 19, 2011\*\*

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

Francisco Javier Andrade-Alvarado appeals from the 84-month sentence imposed following his guilty-plea conviction for being a deported alien found in the United States, in violation of 8 U.S.C. § 1326. Pursuant to *Anders v.*

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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).

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

Andrade-Alvarado filed a pro se supplemental brief, contending that the district court erred in failing to grant him a one-level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1(b). The government filed an answering brief contending that the district court did not err because the government did not move for an additional one-level reduction and Andrade-Alvarado did not show improper motive or arbitrariness.

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 defendant's conviction.

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

**AFFIRMED.**