

FEB 24 2012

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NOT FOR PUBLICATION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.

NELSON VILLEGAS MARTINEZ,

Defendant - Appellant.

No. 11-30062

D.C. No. 3:10-cr-05373-RBL

MEMORANDUM*

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

Submitted February 21, 2012 **

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

Nelson Villegas Martinez appeals from his guilty-plea conviction and 60-month sentence for conspiracy to distribute heroin, in violation of 21 U.S.C.

§§ 841(a)(1), 841(b)(1)(B), and 846. Pursuant to *Anders v. California*, 386 U.S.

* 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).

738 (1967), Villegas Martinez'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 the appellant the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

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 Villegas Martinez'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**.