

MAR 05 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NOT FOR PUBLICATION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.

JOSE MANUEL RODRIGUEZ-
ALVAREZ,

Defendant - Appellant.

No. 11-10009

D.C. No. 2:10-cr-00883-SRB-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Susan R. Bolton, District Judge, Presiding

Submitted February 21, 2012**

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

Jose Manuel Rodriguez-Alvarez appeals from his guilty-plea conviction and 30-month sentence imposed for re-entry of a removed alien, in violation of 8 U.S.C. § 1326. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Rodriguez-

* 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).

Alvarez'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 Rodriguez-Alvarez 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 on direct appeal.

We remand the case to the district court with instructions that it delete from the judgment the reference on page three to a plea agreement and waiver because there is no plea agreement or waiver in this case.

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

AFFIRMED; REMANDED to correct the judgment.