

SEP 19 2012

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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NOT FOR PUBLICATION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>Plaintiff - Appellee,</p> <p>v.</p> <p>FERNANDO ALVAREZ-APODACA,</p> <p>Defendant - Appellant.</p>
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No. 11-10103

D.C. No. 4:10-cr-00715-DCB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Gordon J. Quist, District Judge, Presiding**

Submitted September 10, 2012***

Before: WARDLAW, CLIFTON, and N.R. SMITH, Circuit Judges.

Fernando Alvarez-Apodaca appeals from his guilty-plea conviction and 63-month sentence for reentry after deportation, in violation of 8 U.S.C. § 1326.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The Honorable Gordon J. Quist, Senior United States District Judge for the Western District of Michigan, sitting by designation.

*** 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), Alvarez-Apodaca'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 Alvarez-Apodaca 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 (1988), discloses no arguable grounds for relief on direct appeal.

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

AFFIRMED.