

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

SEP 20 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BENJAPON SAKKARAPOPE,

Defendant - Appellant.

No. 11-10582

D.C. No. 2:11-cr-01695-JAT

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
James A. Teilborg, District Judge, Presiding

Submitted September 10, 2012**

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

Benjapon Sakkarapope appeals the district court's order denying his motion to dismiss with prejudice and granting the government's motion to dismiss without prejudice an indictment charging him with four counts of failure to depart, in

* 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).

violation of 8 U.S.C. § 1253(a)(1)(B). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Sakkarapope's counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record and a motion to take judicial notice of certain documents from the administrative record in Sakkarapope's removal proceedings. We have provided Sakkarapope 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 motions to withdraw and to take judicial notice are **GRANTED**.

AFFIRMED.