

JAN 02 2013

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NOT FOR PUBLICATION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.

MIGUEL LEYVA-NINO, a.k.a. Miguel
Nino Leyva,

Defendant - Appellant.

No. 11-10527

D.C. No. 4:11-cr-00022-RCC

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Philip G. Reinhard, District Judge, Presiding**

Submitted December 19, 2012***

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

Miguel Leyva-Nino appeals from the district court's judgment and

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

** The Honorable Philip G. Reinhard, Senior United States District Judge for the Northern District of Illinois, sitting by designation.

*** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

challenges his guilty-plea conviction and 45-month sentence for reentry after deportation, in violation of 8 U.S.C. § 1326. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Leyva-Nino'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 Leyva-Nino with the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Leyva-Nino has waived his right to appeal his conviction and sentence. Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable issue as to the validity of the waiver. *See United States v. Watson*, 582 F.3d 974, 986-88 (9th Cir. 2009). We accordingly dismiss the appeal. *See id.* at 988.

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

DISMISSED.