

JUN 24 2013

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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NOT FOR PUBLICATION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 style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>PATRICK GARY CARBY,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 11-10665

D.C. No. 2:11-cr-00778-DGC

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
David G. Campbell, District Judge, Presiding

Submitted June 18, 2013**

Before: TALLMAN, M. SMITH, and HURWITZ, Circuit Judges.

Patrick Gary Carby appeals from the district court’s judgment and challenges the 46-month sentence imposed following his guilty-plea conviction for reentry of a removed alien, in violation of 8 U.S.C. § 1326. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Carby’s counsel has filed a brief stating that there

* 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).

are no grounds for relief, along with a motion to withdraw as counsel of record.

No answering brief has been filed.

Carby has filed a pro se supplemental brief, arguing for the first time on appeal that the district court improperly imposed a three-year term of supervised release. The district court did not plainly err in imposing a term of supervised release.

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.