FILED

AUG 19 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NOT FOR PUBLICATION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. MAURO PRECIADO-PRECIADO, Defendant - Appellant.	No. 12-50492 D.C. No. 3:10-cr-03651-MMA MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Michael M. Anello, District Judge, Presiding

Submitted August 14, 2013**

Before: SCHROEDER, GRABER, and PAEZ, Circuit Judges.

Mauro Preciado-Preciado appeals from the district court's judgment and challenges his guilty-plea conviction and 41-month sentence for attempted entry after deportation, in violation of 8 U.S.C. § 1326. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Preciado-Preciado's counsel has filed a brief

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* 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).

stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. We have provided Preciado-Preciado the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Preciado-Preciado waived his right to appeal his conviction, with the exception of an appeal challenging the district court's order denying his motion to dismiss the indictment. He also waived the right to appeal his sentence. Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable grounds for relief as to the district court's order denying Preciado-Preciado's motion to dismiss. We therefore affirm as to that issue. We dismiss the remainder of the appeal in light of the valid appeal waiver. *See United States v. Watson*, 582 F.3d 974, 988 (9th Cir. 2009).

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

AFFIRMED in part; DISMISSED in part.