

OCT 03 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NOT FOR PUBLICATION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.

EFRIN SALCEDO-GARCIA, a.k.a. Efrin Salcedo Garcia, a.k.a. Efren Sacedo, a.k.a. Efren Salcedo,

Defendant - Appellant.

No. 12-50383

D.C. No. 2:12-cr-00276-DDP

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dean D. Pregerson, District Judge, Presiding

Submitted September 24, 2013**

Before: RAWLINSON, N.R. SMITH, and CHRISTEN, Circuit Judges.

Efrin Salcedo-Garcia appeals from the district court’s judgment and challenges his guilty-plea conviction and 46-month sentence for being an illegal alien found in the United States following deportation, in violation of 8 U.S.C.

* 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).

§ 1326. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Salcedo-Garcia's counsel has filed a brief stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. We have provided Salcedo-Garcia 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 as to Salcedo-Garcia's conviction. We therefore affirm his conviction.

Salcedo-Garcia waived the right to appeal his sentence, with the exception of the court's calculation of his criminal history category. Because the record discloses no arguable grounds for relief as to Salcedo-Garcia's criminal history category, we affirm as to that issue. We dismiss the remainder of the sentencing 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.