

DEC 30 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NOT FOR PUBLICATION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.

JOSE CARRILLO,

Defendant - Appellant.

Nos. 12-50528

13-50029

D.C. Nos. 2:08-cr-01290-MMM

2:12-cr-00328-MMM

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Margaret M. Morrow, District Judge, Presiding

Submitted December 17, 2013**

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

In these consolidated appeals, Jose Carrillo appeals from his guilty-plea conviction and 70-month sentence for being an illegal alien found in the United States following deportation, in violation of 8 U.S.C. § 1326; and the revocation of supervised release and the sentence of seven months and 14 days imposed upon

* 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).

revocation. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Carrillo'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 Carrillo the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Carrillo waived his right to appeal his conviction with the exception of an appeal based a claim that his plea was involuntary. He also waived the right to appeal his sentences with the exception of the court's calculation of his criminal history category. 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 Carrillo's plea, the revocation of supervised release, or the criminal history category calculated by the court. We therefore affirm as to those issues. We dismiss the remainder of the appeal in light of the valid appeal waivers. *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.