

FEB 27 2014

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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NOT FOR PUBLICATION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>GENARO GASCA,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 13-10078

D.C. No. 3:12-cr-00213-RS

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Richard Seeborg, District Judge, Presiding

Submitted February 18, 2014**

Before: ALARCÓN, O’SANNLAIN, and FERNANDEZ, Circuit Judges.

Genaro Gasca appeals from the district court’s judgment and challenges his guilty-plea conviction and 70-month sentence for two counts of use of a communications facility to facilitate a drug trafficking crime, in violation of 21 U.S.C. § 843(b). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Gasca’s

* 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).

counsel has filed a brief stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. Gasca has filed a pro se supplemental brief, and the government has filed an answering brief.

The government urges dismissal of this appeal as untimely. Gasca filed a pro se notice of appeal over seven months after the district court entered judgment. Accordingly, we dismiss the appeal. *See* Fed. R. App. P. 4(b)(1)(A)(i); *United States v. Sadler*, 480 F.3d 932, 942 (9th Cir. 2007) (when the government objects to the untimely filing of a notice of appeal, dismissal is mandatory).¹

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

DISMISSED.

¹ In light of this determination, we need not and do not address the appeal waiver issue.