

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 20 2023

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 22-10258

Plaintiff-Appellee,

D.C. No.

v.

4:21-cr-02241-CKJ-LCK-1

ELISEO CESPEDES-VARGAS,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the District of Arizona
Cindy K. Jorgenson, District Judge, Presiding

Submitted April 17, 2023**

Before: CLIFTON, R. NELSON, and BRESS, Circuit Judges.

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

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 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 Cespedes-Vargas the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Cespedes-Vargas waived his right to appeal his conviction and sentence. Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable issue as to the validity of the waiver. *See United States v. Watson*, 582 F.3d 974, 986-88 (9th Cir. 2009). We accordingly dismiss the appeal. *See id.* at 988.

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

DISMISSED.