

OCT 12 2010

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NOT FOR PUBLICATION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.

EFRAIN CISNEROS-VALDEZ,

Defendant - Appellant.

No. 09-10512

D.C. No. 2:09-cr-00895-GMS

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
G. Murray Snow, District Judge, Presiding

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Efrain Cisneros-Valdez appeals from his guilty-plea conviction and 60-month sentence for re-entry of a removed alien, in violation of 8 U.S.C. § 1326.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Cisneros-Valdez's counsel has filed a brief stating there are no grounds for relief, along with a motion to

* 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).

withdraw as counsel of record. We have provided the appellant with the opportunity to file a pro se supplemental brief. We construe the pro se letter received on June 4, 2010, as a pro se supplemental brief. No answering brief has been filed.

Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80-81 (1988), discloses no arguable grounds for relief on direct appeal.

We decline to rule on Cisneros-Valdez's claim of ineffective assistance of counsel on direct appeal. *See United States v. McKenna*, 327 F.3d 830, 845 (9th Cir. 2003).

We dismiss in light of the valid appeal waiver. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000).

Cisneros-Valdez's request for appointment of new counsel is **DENIED**.

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

DISMISSED.