

FEB 26 2014

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NOT FOR PUBLICATION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.

EDUARDO GARCIA-CORTEZ, a.k.a.
Jose Raul Aguilar-Cortez, a.k.a. Eduardo
Garcia,

Defendant - Appellant.

Nos. 12-10612
12-10613

D.C. Nos. 2:12-cr-00271-NVW
2:12-cr-50041-NVW

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Neil V. Wake, District Judge, Presiding

Submitted February 18, 2014**

Before: ALARCÓN, O'SCANLAIN, and FERNANDEZ, Circuit Judges.

In these consolidated appeals, Eduardo Garcia-Cortez appeals his jury-trial conviction and 92-month sentence for reentry of a removed alien, in violation of 8 U.S.C. § 1326; and the revocation of supervised release and consecutive 18-month

* 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).

sentence imposed upon revocation. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Garcia-Cortez's counsel has filed a brief stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. Garcia-Cortez has filed 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 (1988), discloses no arguable grounds for relief on direct appeal.

In his pro se brief, Garcia-Cortez contends that his counsel provided ineffective assistance. We decline to review this claim on direct appeal because this is not one of the “unusual cases where (1) the record on appeal is sufficiently developed to permit determination of the issue, or (2) the legal representation is so inadequate that it obviously denies a defendant his Sixth Amendment right to counsel.” *United States v. Rahman*, 642 F.3d 1257, 1260 (9th Cir. 2011).

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

AFFIRMED.