

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

FEB 14 2013

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FERNANDO DELGADO-ORNELAS,

Defendant - Appellant.

No. 11-10138

D.C. No. 4:10-cr-00707-DCB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
David S. Doty, District Judge, Presiding**

Submitted February 11, 2013***

Before: FERNANDEZ, TASHIMA, and WARDLAW, Circuit Judges.

Fernando Delgado-Ornelas appeals from the district court's judgment and challenges his guilty-plea conviction and 46-month sentence for reentry after

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The Honorable David S. Doty, United States District Judge for the District of Minnesota, sitting by designation.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

deportation, in violation of 8 U.S.C. § 1326. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Delgado-Ornelas's counsel has filed a brief stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. Delgado-Ornelas has filed a pro se supplemental brief. No answering brief has been filed.

Delgado-Ornelas has 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 grant the government's motion to dismiss the appeal. *See id.* at 988.

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

Delgado-Ornelas's motion for leave to file a request for an extension of time and request for extension of time are denied as moot, as Delgado-Ornelas's pro se brief was received and filed within the time granted by the court.

DISMISSED.