

FEB 29 2012

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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NOT FOR PUBLICATION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>HECTOR KRISTHIAN PALACIOS-DIAZ,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 11-50013

D.C. No. 2:10-cr-01120-GAF-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Gary A. Feess, District Judge, Presiding

Submitted February 21, 2012**

Before: FERNANDEZ, McKEOWN and BYBEE, Circuit Judges.

Hector Kristhian Palacios-Diaz appeals from his guilty-plea conviction and 51-month sentence for being an alien found in the United States after removal, in violation of 8 U.S.C. § 1326(a). Pursuant to *Anders v. California*, 386 U.S. 738

* 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).

(1967), Palacios-Diaz's counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record. We have provided the appellant with the opportunity to file a pro se supplemental brief. No pro se supplemental brief or 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 dismiss in light of the valid appeal waiver. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000).

Accordingly, counsel's motion to withdraw is **GRANTED** and the appeal is **DISMISSED**.