

JAN 26 2009

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NOT FOR PUBLICATION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.

ANIETIE JAMES OKPON,

Defendant - Appellant.

No. 06-50589

D.C. No. CR-01-00238-AHM-02

MEMORANDUM*

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

Submitted January 13, 2009**

Before: O'SCANNLAIN, BYBEE and CALLAHAN, Circuit Judges.

Anietie James Okpon appeals from the district court's determination,
following remand pursuant to *United States v. Ameline*, 409 F.3d 1073 (9th Cir.

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

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

2005) (en banc), that it would not have imposed a materially different sentence had it known that the United States Sentencing Guidelines were advisory.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Okpon'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 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.

Accordingly, counsel's motion to withdraw is **GRANTED**, and the district court's judgment is **AFFIRMED**.