

APR 24 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NOT FOR PUBLICATION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.

JOSE GARCIA-CARDENAS, a.k.a. Jose  
Carlos Garcia,

Defendant - Appellant.

No. 07-10476

D.C. No. CR-07-00422-DCB

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
David C. Bury, District Judge, Presiding

Submitted April 13, 2009\*\*

Before: GRABER, GOULD, and BEA, Circuit Judges.

Jose Garcia-Cardenas appeals from his guilty-plea conviction and 46-month sentence for illegal reentry after deportation, in violation of 8 U.S.C. § 1326.

---

\* 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).

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

Our independent review of the record pursuant to *Penon 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 conviction and sentence are affirmed.

We remand the case to the district court with instructions that it delete from the judgment the erroneous reference to a finding that Garcia-Cardenas waived his right to appeal or to collaterally attack the judgment. *See United States v. Rivera-Sanchez*, 222 F.3d 1057, 1062 (9th Cir. 2000); *United States v. Garcia-Cardenas*, 555 F.3d 1049, 1051 (9th Cir. 2009) (per curiam).

**AFFIRMED; REMANDED to correct judgment.**