

JUL 02 2012

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NOT FOR PUBLICATION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.

RICARDO ENRIQUE VEGA,

Defendant - Appellant.

No. 10-10447

D.C. No. 1:09-cr-00335-OWW

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Oliver W. Wanger, District Judge, Presiding

Submitted June 26, 2012**

Before: SCHROEDER, HAWKINS, and GOULD, Circuit Judges.

Ricardo Enrique Vega appeals from his jury-trial conviction and 240-month sentence for possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Vega's counsel has filed a brief stating there are no grounds for relief,

* 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).

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. However, we remand the case to the district court with instructions that it strike the phrase “and payment” from special condition of supervised release number four on page six of the judgment because this part of the condition was included in the written judgment but not imposed at sentencing. See *United States v. Napier*, 463 F.3d 1040, 1042 (9th Cir. 2006); *United States v. Hicks*, 997 F.2d 594, 597 (9th Cir. 1993). We also instruct the district court to amend the judgment to reflect that Vega was found guilty, rather than that he pled guilty.

Vega’s pro se request for appointment of counsel is denied.

Counsel’s motion to withdraw is **GRANTED**, and the district court’s judgment is **AFFIRMED**.

AFFIRMED; REMANDED to correct the judgment.