

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

NOV 20 2012

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANDRES AGUIRRE PEREZ,

Defendant - Appellant.

No. 11-50514

D.C. No. 2:11-cr-00475-R

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Submitted November 13, 2012**

Before: CANBY, TROTT, and W. FLETCHER, Circuit Judges.

Andres Aguirre Perez appeals from his guilty-plea conviction and 120-month sentence for conspiracy to aid and abet the manufacture of methamphetamine and to possess and distribute pseudoephedrine knowing or

* 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).

having reasonable cause to believe it will be used to manufacture methamphetamine, in violation of 21 U.S.C. §§ 841(b)(1)(A)(viii) and 846. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Perez'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 Perez 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 (1988), discloses no arguable grounds for relief on direct appeal. However, we remand the case to the district court with instructions that it strike special condition of supervised release number six on page two of the judgment because the condition was included in the written judgment but not imposed orally 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).

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

AFFIRMED; REMANDED to correct the judgment.