

FEB 21 2013

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NOT FOR PUBLICATION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.

JULIO GUTIERREZ,

Defendant - Appellant.

No. 11-50559

D.C. No. 2:11-cr-00467-JFW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
John F. Walter, District Judge, Presiding

Submitted February 11, 2013**

Before: FERNANDEZ, TASHIMA, and WARDLAW, Circuit Judges.

Julio Gutierrez appeals from the district court's judgment and challenges his guilty-plea conviction and 120-month sentence for aiding and abetting the distribution of methamphetamine, in violation of 18 U.S.C. § 2, and 21 U.S.C.

* 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).

§ 841(a)(1) and (b)(1)(A)(viii). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Gutierrez’s counsel has filed a brief stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. We have provided Gutierrez the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Gutierrez waived his right to appeal his conviction, with the exception of an appeal based on a claim that his plea was involuntary. He also waived the right to appeal five specified issues related to his sentence. Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable grounds for relief as to Gutierrez’s plea or any sentencing issue outside the scope of the appeal waiver. We therefore affirm as to those issues. We dismiss the remainder of the appeal in light of the valid appeal waivers. *See United States v. Watson*, 582 F.3d 974, 986-88 (9th Cir. 2009).

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

AFFIRMED in part; DISMISSED in part.