

JUN 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NOT FOR PUBLICATION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.

LUCKY DIAMOND MAPUNI,

Defendant - Appellant.

No. 12-10357

D.C. No. 1:10-cr-00923-LEK

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
Leslie E. Kobayashi, District Judge, Presiding

Submitted June 18, 2013**

Before: TALLMAN, M. SMITH, and HURWITZ, Circuit Judges.

Lucky Diamond Mapuni appeals from the district court's judgment and challenges his guilty-plea conviction and 180-month sentence for conspiracy to distribute and possess with intent to distribute 50 grams or more of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846.

* 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).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Mapuni's counsel has filed a brief stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. Mapuni has filed a pro se supplemental brief. No 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 as to Mapuni's conviction. We accordingly affirm Mapuni's conviction.

Mapuni waived his right to appeal his sentence. Our independent review of the record discloses no arguable issues as to the validity of the waiver. *See United States v. Watson*, 582 F.3d 974, 986-88 (9th Cir. 2009). Moreover, we reject Mapuni's contention that the district court invalidated the appeal waiver during sentencing. *See United States v. Aguilar-Muniz*, 156 F.3d 974, 977 (9th Cir 1998). We therefore dismiss Mapuni's appeal as to his sentence. *See Watson*, 582 F.3d at 988.

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

AFFIRMED in part; DISMISSED in part.