

OCT 03 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NOT FOR PUBLICATION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.

MICHAEL J. MAKI,

Defendant - Appellant.

No. 12-30367

D.C. No. 3:11-cr-05488-RBL

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Ronald B. Leighton, District Judge, Presiding

Submitted September 24, 2013**

Before: RAWLINSON, N.R. SMITH, and CHRISTEN, Circuit Judges.

Michael J. Maki appeals from the district court’s judgment and challenges his guilty-plea conviction and 48-month sentence for conspiracy to distribute controlled substances, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C) and 846; and distribution of a controlled substance, in violation of 21 U.S.C. § 841(a)(1),

* 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).

(b)(1)(C). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Maki'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 Maki 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 as to Maki's conviction. We accordingly affirm Maki's conviction.

Maki waived the right to appeal his sentence. Because the record discloses no arguable issue as to the validity of the sentencing waiver, we dismiss Maki's appeal as to his sentence. *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.