

OCT 22 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NOT FOR PUBLICATION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.

CORNELIO MATA ESPINOZA,

Defendant - Appellant.

No. 12-10228

D.C. No. 3:09-cr-00103-CRB

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Submitted October 15, 2013**

Before: FISHER, GOULD, and BYBEE, Circuit Judges.

Cornelio Mata Espinoza appeals from the district court’s judgment and challenges his guilty-plea conviction and 250-month sentence for conspiracy to possess with intent to distribute and to distribute heroin and methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A)(i), and (b)(1)(A)(viii). Pursuant to

* 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).

Anders v. California, 386 U.S. 738 (1967), Espinoza’s counsel has filed a brief stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. Espinoza has filed pro se supplemental opening and reply briefs, and the government has filed an answering brief.

Espinoza waived his right to appeal his conviction and sentence. Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable issue as to the validity of the waiver. *See United States v. Watson*, 582 F.3d 974, 986-88 (9th Cir. 2009). We accordingly dismiss the appeal. *See id.* at 988.

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

DISMISSED.