

OCT 02 2014

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NOT FOR PUBLICATION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.

RICHARD VILLARRUEL, a.k.a. Grizzly,

Defendant - Appellant.

No. 13-50542

D.C. No. 2:10-cr-00241-RGK

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
R. Gary Klausner, District Judge, Presiding

Submitted September 23, 2014**

Before: W. FLETCHER, RAWLINSON, and CHRISTEN, Circuit Judges.

Richard Villarruel appeals from the district court's judgment and challenges the 46-month sentence imposed following his guilty-plea conviction for conspiracy to possess with intent to distribute heroin, in violation of 21 U.S.C. § 846.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Villarruel's counsel has

* 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).

filed a brief stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. We have provided Villarruel the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Villarruel has waived his right to appeal his 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.

We remand the case to the district court with instructions to vacate the amended judgment and reinstate the original judgment. *See Fed. R. Crim. P. 35(a); United States v. Aguilar-Reyes*, 653 F.3d 1053, 1055-56 (9th Cir. 2011) (Rule 35's 14-day deadline is jurisdictional). The district court is further directed to delete from the original judgment the references to methamphetamine, aiding and abetting, and 18 U.S.C. § 2.

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

DISMISSED; REMANDED to correct the judgment.