

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

OCT 6 2014

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANDREA LORRAINE AVERY, a.k.a.
Susie Allen, a.k.a. Rene Bell, a.k.a. Donna
Browning, a.k.a. Eileen Burke,

Defendant - Appellant.

No. 13-50214

D.C. No. 2:11-cr-00405-TJH

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Terry J. Hatter, Jr., District Judge, Presiding

Submitted September 23, 2014**

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

Andrea Lorraine Avery appeals from the district court's judgment and challenges the 88-month sentence imposed following her guilty-plea conviction for 13 counts of bank fraud, in violation of 18 U.S.C. § 1344(2); and two counts of

* 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).

making a false statement to a bank, in violation of 18 U.S.C. § 1014. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Avery's counsel has filed a brief stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. Avery 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 on direct appeal except with respect to the restitution award. In response to this court's July 29, 2014, order, the government filed a letter brief conceding that there is an irreconcilable discrepancy between the restitution ordered by the district court at the sentencing hearing and the restitution amount identified in the Amended Judgment. Accordingly, we remand to the district court with instructions that it amend the judgment to reflect the correct restitution amount of \$1,935,709.44 payable to Bank of America and \$947,692.18 payable to Wells Fargo Bank, for a total of \$2,883,401.62, as pronounced at sentencing.

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

Avery's motion to file a late pro se supplemental brief is **GRANTED**. The Clerk shall file the brief received on August 18, 2014.

AFFIRMED; REMANDED to correct judgment.