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U.S. COURT OF APPEALS

## NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MYEONG HOH KIM,

Defendant - Appellant.

No. 13-10585

D.C. No. 1:13-cr-00214-JMS-1

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Hawaii  
J. Michael Seabright, District Judge, Presiding

Submitted March 17, 2015\*\*

Before: HUG, FARRIS, and CANBY, Circuit Judges.

Myeong Hoh Kim appeals from the district court's judgment and challenges his guilty-plea conviction and 168-month sentence for conspiracy to distribute and possess with intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A), and 846. Pursuant to *Anders v. California*, 386 U.S. 738

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\* 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).

(1967), Kim'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 Kim 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 Kim's conviction. We accordingly affirm his conviction.

Kim has waived his right to appeal his 168-month sentence. Because the record discloses no arguable issue as to the validity of the appeal waiver, we dismiss the appeal as to his sentence. *See United States v. Watson*, 582 F.3d 974, 986-88 (9th Cir. 2009).

Kim requests that his case be remanded to the district court so that the district court may consider a reduction in his sentence based on a retroactive amendment to the Sentencing Guidelines. The proper procedure for obtaining a reduction in a sentence on those grounds is through a motion in district court pursuant to 18 U.S.C. § 3582(c)(2). We express no opinion regarding the merits of such a motion.

Counsel's motion to withdraw as counsel from the appellate proceedings is **GRANTED**.

**AFFIRMED** in part; **DISMISSED** in part.