

OCT 19 2015

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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## NOT FOR PUBLICATION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.

JAMES PHINAZEE ELLIOTT,

Defendant - Appellant.

No. 14-30107

D.C. No. 3:11-cr-00060-HA

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Oregon  
Ancer L. Haggerty, District Judge, Presiding

Submitted October 14, 2015\*\*

Before: SILVERMAN, BYBEE, and WATFORD, Circuit Judges.

James Phinazee Elliott appeals from the district court's judgment and challenges his jury-trial conviction and 37-month sentence for conspiracy to distribute oxycodone and to use communication facilities, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C), 843(b), and 846. Pursuant to *Anders v. California*, 386

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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).

U.S. 738 (1967), Elliott's counsel has filed a brief stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. Elliott has filed a pro se supplemental brief. No answering brief has been filed.

Our independent review of the record pursuant to *Penon v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable grounds for relief on direct appeal.

We decline to address on direct appeal Elliott's argument that trial and sentencing counsel provided ineffective assistance. *See United States v. Rahman*, 642 F.3d 1257, 1259-60 (9th Cir. 2011).

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

**AFFIRMED.**