

MAR 21 2016

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NOT FOR PUBLICATION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.

JAY ALI SABREE, a.k.a. Jay A. Sabree,

Defendant - Appellant.

No. 15-10005

D.C. No. 2:14-cr-00601-SRB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Susan R. Bolton, District Judge, Presiding

Submitted March 15, 2016**

Before: GOODWIN, LEAVY, and CHRISTEN, Circuit Judges.

Jay Ali Sabree appeals from the district court's judgment and challenges his guilty-plea conviction and 48-month sentence for assault by strangling or suffocating a spouse or intimate partner within Indian country, in violation of 18 U.S.C. §§ 113(a)(8), 1152. Pursuant to *Anders v. California*, 386 U.S. 738 (1967),

* 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).

Sabree'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 Sabree the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Sabree 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.

At sentencing, the district court announced a special condition of supervised release that Sabree not contact the victim, Jodah Syretta Seymour, and that the probation officer verify compliance. This special condition of supervised release does not appear in the written judgment. We remand to the district court to add to the written judgment this special supervised release condition. *See United States v. Hernandez*, 795 F.3d 1159, 1169 (9th Cir. 2015) (remanding for the district court to make the written judgment consistent with the unambiguous oral pronouncement of sentence).

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

DISMISSED; REMANDED to correct the judgment.