

FILED

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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NOT FOR PUBLICATION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.

EVERARDO AGUILAR HERNANDEZ,
AKA Evelardo Aguilar Hernandez,

Defendant-Appellant.

No. 15-50399

D.C. No. 2:14-cr-00571-AB-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Andre Birotte, Jr., District Judge, Presiding

Submitted November 18, 2016**
San Francisco, California

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

Everardo Aguilar Hernandez appeals from the district court's judgment and challenges his guilty-plea conviction and 36-month sentence for conspiracy to possess with intent to distribute marijuana, in violation of 21 U.S.C. § 846,

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

841(a)(1), (b)(1)(C). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Hernandez's counsel has filed a brief stating that there are no grounds for relief, along with a motion to withdraw as counsel. We have provided Hernandez the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Hernandez waived his right to appeal his conviction, with the exception of an appeal based on a claim that his plea was involuntary. He also waived the right to appeal his sentence, with the exception of the court's calculation of his criminal history category. Our independent review of the record pursuant to *Person v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable grounds for relief as to the voluntariness of Hernandez's plea or the criminal history category calculated by the court. We therefore affirm as to those issues. We dismiss the remainder of the appeal in light of the valid appeal waivers. See *United States v. Watson*, 582 F.3d 974, 986-88 (9th Cir. 2009).

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

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