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MAR 06 2017

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NOT FOR PUBLICATION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.

KENNETH DWAYNE OLIVER,

Defendant-Appellant.

No. 16-10045

D.C. No.

2:14-cr-00128-TLN-1

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Troy L. Nunley, District Judge, Presiding

Submitted March 2, 2017**

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

Kenneth Dwayne Oliver appeals from the district court's judgment and challenges his guilty-plea conviction and 130-month sentence for distribution of cocaine base, possession with intent to distribute methamphetamine, possession

* 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).

with intent to distribute cocaine base, and possession with intent to distribute heroin, all in violation of 21 U.S.C. § 841(a)(1). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Oliver'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 Oliver the opportunity to file a pro se supplemental brief. He has filed a pro se brief. No answering brief has been filed.

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

We remand to the district court with instructions to correct the judgment to reflect that the conviction on count 6 is for possession with intent to distribute cocaine base and the conviction on count 7 is for possession with intent to distribute heroin. *See United States v. Herrera-Blanco*, 232 F.3d 715, 719 (9th Cir. 2000) (remanding sua sponte to correct the judgment).

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

DISMISSED; Remanded to correct the judgment.