

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 27 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 16-50378

Plaintiff-Appellee,

D.C. No. 3:16-cr-01124-LAB

v.

MEMORANDUM*

OSCAR DAVID AVILA,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted October 23, 2017**

Before: McKEOWN, WATFORD, and FRIEDLAND, Circuit Judges.

Oscar David Avila appeals from the district court's judgment and challenges the 60-month sentence imposed following his guilty-plea conviction for possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1).

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Avila's counsel has filed a

* 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).

brief stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. We have provided Avila the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Avila waived his right to appeal his 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.

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

DISMISSED.