

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 17 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 16-10479

Plaintiff-Appellee,

D.C. No. 1:16-cr-00003-RVM

v.

MEMORANDUM*

ALEXANDRA CASTRO MACABALO,

Defendant-Appellant.

Appeal from the United States District Court
for the District of the Northern Mariana Islands
Ramona V. Manglona, Chief Judge, Presiding

Submitted November 15, 2017**

Before: CANBY, TROTT, and GRABER, Circuit Judges.

Alexandra Castro Macabalo appeals from the district court's judgment and challenges her guilty-plea conviction and sentence for perjury, in violation of 18 U.S.C. § 1623(a). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Macabalo's counsel has filed a brief stating that there are no grounds for relief,

* 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).

along with a motion to withdraw as counsel of record. We have provided Macabalo the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

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

With respect to Macabalo's sentence, our independent review of the record pursuant to *Penon v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable grounds for relief, except that the written judgment, which reflects a 21-month custodial sentence, is inconsistent with the district court's oral pronouncement of a 20-month sentence. Accordingly, we affirm Macabalo's sentence but remand the case with instructions to make the judgment consistent with the oral pronouncement. *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 in part; AFFIRMED in part; REMANDED to correct the judgment.