

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 20 2017

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 16-30291

Plaintiff-Appellee,

D.C. No. 1:15-cr-00027-SPW

v.

MEMORANDUM*

FRANKLYN DON HAMMONTREE,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Montana
Susan P. Watters, District Judge, Presiding

Submitted December 18, 2017**

Before: WALLACE, SILVERMAN, and BYBEE, Circuit Judges.

Franklyn Don Hammontree appeals from the district court's judgment and challenges his guilty-plea conviction and 48-month sentence for distribution of methamphetamine, in violation of 21 U.S.C. § 841(a)(1). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Hammontree's counsel has filed a brief stating

* 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).

that there are no grounds for relief, along with a motion to withdraw as counsel of record. Hammontree has filed a pro se supplemental brief. No answering brief has been filed.

Our independent review of the record pursuant to *Penon v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable grounds for relief as to Hammontree's conviction. We accordingly affirm Hammontree's conviction.

Hammontree waived the right to appeal his sentence. Because the record discloses no arguable issue as to the validity of the sentencing waiver, we dismiss Hammontree's appeal as to his sentence. *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.