

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 13 2018

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 17-30036

Plaintiff-Appellee,

D.C. No. 2:13-cr-00082-LRS

v.

MEMORANDUM\*

EDWARD MCINTOSH,

Defendant-Appellant.

Appeal from the United States District Court  
for the Eastern District of Washington  
Lonny R. Suko, District Judge, Presiding

Submitted April 11, 2018\*\*

Before: SILVERMAN, PAEZ, and OWENS, Circuit Judges.

Edward McIntosh appeals from the district court's judgment and challenges his guilty-plea conviction and 120-month sentence for possession with intent to distribute five grams or more of actual methamphetamine, in violation of 21 U.S.C. § 841(a)(1). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), McIntosh's

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\* 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).

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 McIntosh the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

McIntosh waived his right to appeal his conviction and sentence, with the exception of the court's guideline calculations or an illegal sentence. 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 the guideline calculations or legality of the sentence. We therefore affirm as to those issues. We dismiss the remainder of the appeal in light of the valid appeal waiver. *See United States v. Watson*, 582 F.3d 974, 988 (9th Cir. 2009).

Counsel's motion to withdraw is **GRANTED**. The government's motion for summary affirmance is **DENIED** as moot.

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