

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 16 2018

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 17-50050

Plaintiff-Appellee,

D.C. No. 2:15-cr-00645-MWF

v.

MEMORANDUM*

EDMUNDO RODRIGUEZ, a.k.a. Blacky,
a.k.a. Armando Ramirez,

Defendant-Appellant.

Appeal from the United States District Court
for the Central District of California
Michael W. Fitzgerald, District Judge, Presiding

Submitted February 13, 2018**

Before: LEAVY, FERNANDEZ, and MURGUIA, Circuit Judges.

Edmundo Rodriguez appeals from the district court's judgment and challenges his guilty-plea conviction and 60-month sentence for distribution of methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B)(viii). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Rodriguez's counsel has filed a brief

* 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).

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

Rodriguez waived his right to appeal his conviction, with the exception of an appeal based on a claim that his plea was involuntary. He also waived the right to appeal most aspects of his 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 voluntariness of Rodriguez's plea or any aspects of the sentence that fall outside the scope of the waiver. 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).

To the extent that Rodriguez seeks to raise a claim of ineffective assistance of counsel, we decline to address this issue on direct appeal. *See United States v. Rahman*, 642 F.3d 1257, 1259-60 (9th Cir. 2011).

In conjunction with his pro se supplemental brief, Rodriguez filed a request to proceed in forma pauperis. A review of the district court docket reflects that the district court found defendant financially eligible for appointed counsel. Appellant's in forma pauperis status continues in this court. *See Fed. R. App. P. 24(a)(3)*. Appellant's motion to proceed in forma pauperis on appeal is therefore unnecessary.

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

AFFIRMED in part; DISMISSED in part.