

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 24 2019

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 18-10352

Plaintiff-Appellee,

D.C. No. 2:17-cr-01165-DLR-2

v.

MEMORANDUM*

JOSE RIVERA-LUGO,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Arizona
Douglas L. Rayes, District Judge, Presiding

Submitted April 17, 2019**

Before: McKEOWN, BYBEE, and OWENS, Circuit Judges.

Jose Rivera-Lugo appeals from the district court's judgment and challenges his guilty-plea conviction and 90-month sentence for conspiracy to possess with intent to distribute heroin, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B), and 846. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Rivera-Lugo's

* 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 Rivera-Lugo the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Rivera-Lugo waived his right to appeal his conviction and 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.