

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 23 2019

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ERVIN GALBERT, AKA Erv Cat, AKA
DC, AKA EC,

Defendant-Appellant.

No. 19-50054

D.C. No. 2:18-cr-00019-PSG-2

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Philip S. Gutierrez, District Judge, Presiding

Submitted August 19, 2019**

Before: SCHROEDER, PAEZ, and HURWITZ, Circuit Judges.

Ervin Galbert appeals from the district court's judgment and challenges his guilty-plea conviction and 120-month sentence for conspiracy to distribute cocaine base in the form of crack cocaine, in violation of 21 U.S.C. § 846. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Galbert'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. We have provided Galbert the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Galbert 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 five specified issues related to 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 Galbert's plea or any sentencing issues outside the scope of the appeal 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).

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

AFFIRMED in part; DISMISSED in part.