

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 6 2020

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 18-10177

Plaintiff-Appellee,

D.C. No. 1:14-cr-00688-HG-1

v.

MEMORANDUM*

LUKE WARNER, AKA Lucky,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Hawaii
Helen Gillmor, District Judge, Presiding

Submitted March 3, 2020**

Before: MURGUIA, CHRISTEN, and BADE, Circuit Judges.

Luke Warner appeals from the district court's judgment and challenges his guilty-plea conviction and 120-month sentence for conspiracy to possess with intent to distribute 500 grams or more of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846. Pursuant to *Anders v. California*, 386

* 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).

U.S. 738 (1967), Warner's counsel has filed a brief stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. Warner has filed pro se supplemental briefs. No answering brief has been filed.

Having conducted an independent review of the record pursuant to *Penon v. Ohio*, 488 U.S. 75, 80 (1988), including a review of Warner's pro se briefs and various additional pro se filings, we conclude that there are no arguable grounds for relief on direct appeal as to Warner's conviction and sentence, with the exception of standard conditions four, five, and thirteen, which are unconstitutionally vague. *See United States v. Evans*, 883 F.3d 1154, 1162-64 (9th Cir.), *cert. denied*, 139 S. Ct. 133 (2018). We vacate these conditions and remand to the district court to impose whatever alternative conditions it deems appropriate. *See United States v. Ped*, 943 F.3d 427, 433-34 (9th Cir. 2019).

Counsel's motion to withdraw is **GRANTED**. Warner's pro se motion for appointment of substitute counsel is denied.

Warner's pro se motions to file some of his submissions under seal are **GRANTED**. The Clerk will file the documents at Docket Entry Nos. 22, 27, 28, 29, 30, and 31 under seal. Warner's pro se motion to file the documents at Docket Entry No. 28 in camera, and all other pending pro se motions, are **DENIED**.

AFFIRMED in part; VACATED in part; REMANDED with instructions.