

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 9 2020

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

VAUDENCIA CEBALLOS HAMILTON,

Defendant-Appellant.

No. 19-30131

D.C. No. 1:18-cr-00086-DCN-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Idaho
David C. Nye, District Judge, Presiding

Submitted June 2, 2020**

Before: LEAVY, PAEZ, and BENNETT, Circuit Judges.

Vaudencia Ceballos Hamilton appeals from the district court's judgment and challenges her guilty-plea conviction and 240-month sentence for conspiracy to distribute fentanyl and methamphetamine resulting in serious bodily injury and death, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C), and 846. Pursuant to

* 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).

Anders v. California, 386 U.S. 738 (1967), Hamilton’s counsel has filed a brief stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. Hamilton has filed a pro se supplemental opening brief, and the government has filed a motion to dismiss.

Hamilton waived her right to appeal her 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). Hamilton’s pro se argument that the waiver is unenforceable because she received ineffective assistance of counsel is unavailing; hers is not one of the “unusual cases” in which we may review claims of ineffective assistance of counsel on direct appeal. *See United States v. Rahman*, 642 F.3d 1257, 1259-60 (9th Cir. 2011). We accordingly **GRANT** the government’s motion to dismiss the appeal. *See id.* at 1260.

Hamilton’s pro se motion for leave to file a pro se supplemental brief is denied as moot, and her request for oral argument is **DENIED**. The government’s motion to submit a sealed document is **GRANTED**. The Clerk will file under seal the plea agreement at Docket Entry No. 26-2, and publicly the motion at Docket Entry No. 26-1.

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

DISMISSED.