

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 26 2021

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 21-30001

Plaintiff-Appellee,

D.C. No. 4:14-cr-00051-BMM-1

v.

MEMORANDUM*

HIRAM DEAN BIRD,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Montana
Brian M. Morris, District Judge, Presiding

Submitted July 19, 2021**

Before: SCHROEDER, SILVERMAN, and MURGUIA, Circuit Judges.

Hiram Dean Bird appeals from the district court's judgment revoking supervised release and imposing a 6-month custodial sentence and 33-month term of supervised release. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Bird's counsel has filed a brief stating that there are no grounds for relief, along

* 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).

with a motion to withdraw as counsel of record. We have provided Bird the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable grounds for relief on direct appeal.

However, we remand the case to the district court with instructions to correct the written judgment to conform to the oral pronouncement of sentence. At the revocation hearing, the district court indicated that it was reimposing the special conditions from the previous judgment. The special conditions in the instant judgment differ from those contained in the previous judgment in two material respects. Because the oral pronouncement of the sentence controls, we remand solely for the district court to strike “place of employment” from Special Condition 7 and to strike Special Condition 13. *See United States v. Hernandez*, 795 F.3d 1159, 1169 (9th Cir. 2015) (remanding for the district court to make the written judgment consistent with the unambiguous oral pronouncement of sentence).

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

AFFIRMED; REMANDED to correct the judgment.