

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 18 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 20-50338

Plaintiff-Appellee,

D.C. No. 8:19-cr-00113-DOC-11

v.

VICTOR NUNEZ MACIAS,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the Central District of California
David O. Carter, District Judge, Presiding

Submitted February 15, 2022**

Before: FERNANDEZ, TASHIMA, and FRIEDLAND, Circuit Judges.

Victor Nunez Macias appeals from the district court's judgment and challenges the 120-month sentence imposed following his guilty-plea conviction for possession with intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A)(i). Pursuant to *Anders v. California*, 386 U.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).

738 (1967), Macias's 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 Macias the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Although Macias entered into a plea agreement that contained an appeal waiver, we decline to enforce the waiver. At sentencing, the district court advised Macias that he had the right to appeal, and the government did not object. *See United States v. Buchanan*, 59 F.3d 914, 917-18 (9th Cir. 1995). However, our independent review of the record pursuant to *Penon v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable grounds for relief on direct appeal.

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

AFFIRMED.