

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 23 2022

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 21-10140

Plaintiff-Appellee,

D.C. No. 1:14-cr-00009-FMTG-1

v.

MEMORANDUM*

FRANCISCO C. ARIAS,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Guam
Frances Tydingco-Gatewood, District Judge, Presiding

Submitted March 16, 2022**

Before: SILVERMAN, MILLER, and BUMATAY, Circuit Judges.

Francisco C. Arias appeals from the district court's judgment and challenges the 168-month sentence imposed on remand following his guilty-plea conviction for conspiracy to distribute methamphetamine, in violation of 21 U.S.C.

§§ 841(a)(1), (b)(1)(A)(viii), and 846. 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), Arias'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 Arias 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 except as to the five-year terms of supervised release imposed on Counts 3 and 6, which exceed the statutory maximum of three years. *See* 18 U.S.C. § 3583(b)(2). We vacate that portion of the judgment and remand for the district court to impose up to a three-year term of supervised release on Counts 3 and 6.

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

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