

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 24 2024

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

PATRICIA GAUDRON,

Defendant - Appellant.

No. 23-643

D.C. No. 3:22-cr-02041-CAB-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Cathy Ann Bencivengo, District Judge, Presiding

Submitted January 17, 2024**

Before: S.R. THOMAS, McKEOWN, and HURWITZ, Circuit Judges.

Patricia Gaudron appeals from the district court's judgment and challenges her jury-trial conviction, time-served sentence, and two-year term of supervised release for transportation of certain aliens, in violation of 8 U.S.C.

§ 1324(a)(1)(A)(ii). Pursuant to *Anders v. California*, 386 U.S. 738 (1967),

* 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).

Gaudron'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 Gaudron 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 as to Gaudron's conviction, custodial sentence, term of supervised release, and special conditions of supervision. However, the record reflects that the district court did not orally pronounce or incorporate by reference the 13 standard supervised release conditions included in the written judgment. In light of *United States v. Montoya*, 82 F.4th 640 (9th Cir. 2023) (en banc), which was decided after the district court entered judgment in this case, we vacate those conditions and remand for the limited purpose of permitting the district court to orally pronounce any standard conditions it wishes to reimpose and to give Gaudron an opportunity to object. *See id.* at 656.

Counsel's motion to withdraw is **DENIED without prejudice** to renewal in the district court.

AFFIRMED in part; VACATED in part; and REMANDED.