

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 1 2024

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ISRRAEL MILLAN III,

Defendant - Appellant.

No. 23-615

D.C. No.

2:20-cr-00713-ROS-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Roslyn O. Silver, District Judge, Presiding

Submitted April 22, 2024**

Before: CALLAHAN, LEE, and FORREST, Circuit Judges.

Israael Millan III appeals from the district court's judgment and challenges his jury-trial conviction and 87-month sentence for conspiracy, mail and wire fraud, and transactional money laundering, in violation of 18 U.S.C. §§ 2, 371, 1341, 1343, and 1957. 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).

Millan'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 Millan 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 *Penon v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable grounds for relief on direct appeal.

However, in light of *United States v. Montoya*, 82 F.4th 640 (9th Cir. 2023) (en banc), which was decided after Millan was sentenced, we vacate the 13 standard conditions of supervised release included in the written judgment and remand for the limited purpose of permitting the district court to orally pronounce any standard conditions it wishes to impose after giving Millan an opportunity to object. *See id.* at 656. On remand, the district court is further instructed to consider Millan's eligibility for a sentence reduction under Amendment 821 to the Guidelines. *See* U.S.S.G. § 1B1.10(a)(1), (d).

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

AFFIRMED in part; VACATED in part; and REMANDED.