

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 24 2024

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JULIO CESAR MARTINEZ, AKA Primo,

Defendant - Appellant.

No. 23-4432

D.C. No.

8:21-cr-00101-CJC-FWS-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Sunshine S. Sykes, District Judge, Presiding

Submitted December 17, 2024**

Before: WALLACE, GRABER, and BUMATAY, Circuit Judges.

Julio Cesar Martinez appeals from the district court's judgment and challenges his guilty-plea conviction and 288-month sentence for conspiracy and attempt to distribute and possess with intent to distribute heroin in violation of 21 U.S.C. § 846.

* 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).

Martinez's counsel filed a brief under *Anders v. California*, 386 U.S. 738 (1967), stating that there are no non-frivolous arguments for appeal. Appellant has not filed a pro se supplemental brief.

In the plea agreement, Martinez waived the right to appeal the conviction, except to claim the plea was involuntary, and the right to appeal most aspects of the sentence. Our independent review of the record, *see Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses no basis to challenge the voluntariness of Martinez's plea or any aspect of the sentence that falls outside the appeal waiver. We therefore affirm as to those issues.

We dismiss the remainder of the appeal because there is no non-frivolous issue as to whether the appeal waiver is enforceable. *See United States v. Watson*, 582 F.3d 974, 986-88 (9th Cir. 2009).

Counsel's motion to withdraw is granted.

AFFIRMED in part; DISMISSED in part.