NOT FOR PUBLICATION

FILED

OCT 29 2026

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. LANCE L. BERMUDEZ, AKA Hammah, Defendant - Appellant.	No. 25-4481 D.C. No. 1:19-cr-00099-DKW-KJM-4 MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
Derrick K. Watson, District Judge, Presiding

Submitted October 27, 2026**

Before: SILVERMAN, FORREST, and VANDYKE, Circuit Judges.

Lance L. Bermudez appeals from the district court's judgment and challenges his guilty-plea conviction and aggregate 360-month sentence for racketeering conspiracy in violation of 18 U.S.C. § 1962(d), conspiracy to distribute controlled substances in violation of 21 U.S.C. §§ 841(a)(1) and 846, and

* 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).

Hobbs Act robbery in violation of 18 U.S.C. §§ 2 and 1951.

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

In the plea agreement, Bermudez waived his right to appeal the conviction and any sentence within the Guidelines range as determined by the court. Bermudez, however, retained the right to appeal the portion of his sentence that exceeded that range.

Our independent review of the record, *see Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses 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). To the extent the appeal waiver is ambiguous as to whether "the guideline range determined by the Court to be applicable to the defendant" refers to the pre- or post-departure range, *see United States v. Kheyre*, 176 F.4th 1169, 1176 (9th Cir. 2026) ("[A] departure is a sentence imposed outside of the applicable guideline range, which is determined based on the offense level and criminal history category calculated in accordance with Chapters Two through Four of the Guidelines Manual."), our independent review discloses no non-frivolous issue as to the portion of the sentence that exceeds the post-departure range.

Counsel's motion to withdraw is granted.

AFFIRMED in part; DISMISSED in part.