

FILED

JUL 17 2017

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JOEL ESPINOZA,

Defendant-Appellant.

No. 16-50381

D.C. No.

3:16-cr-00664-LAB-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted July 13, 2017**

Before: HUG, FARRIS, and CANBY, Circuit Judges.

Joel Espinoza appeals from the district court's judgment and challenges his 120-month sentence for possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Espinoza's counsel has filed a brief stating that there are no grounds for

* 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).

relief, along with a motion to withdraw as counsel of record. Espinoza has filed a pro se supplemental brief. The United States has filed a motion to dismiss the appeal.

Espinoza has waived the right to appeal his sentence. Because the record discloses no arguable issue as to the validity of the appeal waiver, we dismiss the appeal. *See United States v. Watson*, 582 F.3d 974, 986-88 (9th Cir. 2009).

However, the judgment does not accurately reflect the statute of conviction. We remand to the district court with instructions to correct the judgment to reflect that the conviction is for a violation of 21 U.S.C. § 841. *See United States v. Herrera-Blanco*, 232 F.3d 715, 719 (9th Cir. 2000) (remanding sua sponte to correct the judgment).

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

The motion to dismiss the appeal is **GRANTED**.

DISMISSED; REMANDED to correct the judgment.