

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 24 2019

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

No. 18-10332

Plaintiff-Appellee,

D.C. No.

v.

4:15-cr-01691-JGZ-LAB-1

MIGUEL ALEMAN-GARCIA,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the District of Arizona
Jennifer G. Zipps, District Judge, Presiding

Submitted April 17, 2019**

Before: McKEOWN, BYBEE, and OWENS, Circuit Judges.

Miguel Aleman-Garcia appeals from the district court's judgment and challenges his guilty-plea conviction and 46-month sentence for reentry of a removed alien, in violation of 8 U.S.C. § 1326. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Aleman-Garcia's counsel has filed a brief stating that there

* 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).

are no grounds for relief, along with a motion to withdraw as counsel of record. We have provided Aleman-Garcia the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

Aleman-Garcia waived his right to appeal his conviction and sentence. Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80 (1988), discloses no arguable issue as to the validity of the waiver. *See United States v. Watson*, 582 F.3d 974, 986-88 (9th Cir. 2009). We accordingly dismiss the appeal except as to standard conditions five, six, and fifteen, which are unconstitutionally vague. *See United States v. Evans*, 883 F.3d 1154, 1162-64 (9th Cir.), *cert. denied*, 139 S. Ct. 133 (2018); *see also Watson*, 582 F.3d at 977 (an appeal waiver does not bar a constitutional challenge to a supervised release condition). We remand to the district court to modify these conditions consistent with *Evans*.

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

DISMISSED; REMANDED with instructions.