

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 19 2021

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JASON B. MITCHELL,

Defendant-Appellant.

Nos. 21-10086
21-10088

D.C. Nos. 1:18-cr-00195-HG-1
1:05-cr-00052-HG-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
Helen Gillmor, District Judge, Presiding

Submitted November 8, 2021**

Before: CANBY, TASHIMA, and MILLER, Circuit Judges.

In these consolidated appeals, Jason B. Mitchell appeals his guilty-plea conviction and 170-month sentence for conspiracy to distribute and possess with intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846, as well as the revocation of supervised release and concurrent

* 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).

37-month sentence imposed upon revocation. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Mitchell'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 Mitchell the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

In Appeal No. 21-10086, Mitchell waived his right to appeal his conviction and sentence. Our independent review of the record pursuant to *Penon 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 that appeal. *See id.* at 988.

In Appeal No. 21-10088, our independent review of the record pursuant to *Penon* discloses no arguable grounds for relief on direct appeal.

Counsel's motion to withdraw is **GRANTED**. Mitchell's pro se motion to appoint substitute counsel is **DENIED**. To the extent Mitchell's motion asserts a challenge to his sentence, that challenged is barred by the appeal waiver.

APPEAL NO. 21-10086 DISMISSED.

APPEAL NO. 21-10088 AFFIRMED.