

APPENDIX A

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 27 2019

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

DIEGO ALONSO LOZANO PEREZ, AKA
Diego Lozano, AKA Diego A. Lozano,
AKA Diego Alonso Lozano, AKA Diego
Lozano Perez, AKA Diego Alonso Lozano-
Perez, AKA Diego Perez, AKA Diego
Alonzo Perez, AKA Diego Perez Lozano,
AKA Diego Alonso Perez-Lozano,

Defendant-Appellant.

No. 18-10377

D.C. No.

1:17-cr-00007-LJO-SKO-1

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O'Neill, District Judge, Presiding

Submitted August 19, 2019**

Before: SCHROEDER, PAEZ, and HURWITZ, Circuit Judges.

Diego Alonso Lozano Perez appeals from the district court's judgment 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).

challenges the 188-month sentence imposed following his guilty-plea conviction for possession with the intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Lozano Perez's counsel has filed a brief stating that there are no grounds for relief, along with a motion to withdraw as counsel of record. Lozano Perez has filed a pro se supplemental opening brief, and the government has filed an answering brief. Lozano Perez's motion to file a late reply brief is granted. The Clerk will file the reply brief received at Docket Entry No. 31.

Lozano Perez waived the right to appeal his sentence. The record does not disclose any arguable issue as to the validity of the waiver. *See United States v. Watson*, 582 F.3d 974, 986-88 (9th Cir. 2009). Contrary to Lozano Perez's argument in his pro se brief, any violation of Federal Rule of Criminal Procedure 11 by the district court did not amount to plain error. *See United States v. Dominguez Benitez*, 542 U.S. 74, 83 (2004) (to show that a district court committed plain error under Rule 11, a defendant must show "a reasonable probability that, but for the error, he would not have entered the plea"). Lozano Perez's remaining pro se arguments are covered by the valid waiver. Accordingly, we dismiss Lozano Perez's appeal. *See Watson*, 582 F.3d at 988.

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

DISMISSED.