

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 23 2025

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GABRIEL ANTONE EBERHARDT,

Defendant - Appellant.

No. 24-6773

D.C. No.

1:21-cr-00101-JAO-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
Jill A. Otake, District Judge, Presiding

Submitted December 17, 2025**

Before: PAEZ, CHRISTEN, and KOH, Circuit Judges.

Gabriel Antone Eberhardt appeals from the district court's judgment and challenges his guilty-plea conviction and aggregate 360-month sentence for conspiracy to distribute controlled substances in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A)(i), (vi), (viii), and 846; possession of a firearm in

* 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).

furtherance of a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1)(A); and felon in possession of a firearm in violation of 18 U.S.C. §§ 2 and 922(g)(1).

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

In the plea agreement, Eberhardt waived his right to appeal the conviction and sentence.

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). We therefore dismiss the appeal. *See id.* at 988.

Counsel's motion to withdraw is granted.

DISMISSED.

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District of Hawaii,
Honolulu

ORDER

Before: PAEZ, CHRISTEN, and KOH, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R.

App. P. 40.

The petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 40) are denied.

No further filings will be entertained in this closed case.

**Additional material
from this filing is
available in the
Clerk's Office.**