FILED

NOT FOR PUBLICATION

FEB 29 2012

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,	No. 10-50124
Plaintiff - Appellee,	D.C. No. 8:08-cr-00333-DOC
v.	
MAURICIO ALMENDAREZ-AMAYA, a.k.a. Mauricio Armendarez,	MEMORANDUM*
Defendant - Appellant.	

Appeal from the United States District Court
for the Central District of California
David O. Carter, District Judge, Presiding

Submitted February 21, 2012**

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

Mauricio Almendarez-Amaya appeals from his bench-trial conviction and

84-month sentence for being an illegal alien found in the United States following

deportation, in violation of 8 U.S.C. § 1326(a). Pursuant to *Anders v. California*,

_____

*   This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

**   The panel unanimously concludes this case is suitable for decision
without oral argument. *See* Fed. R. App. P. 34(a)(2).

386 U.S. 738 (1967), Almendarez-Amaya's counsel has filed a brief stating there

are no grounds for relief, along with a motion to withdraw as counsel of record.

We have provided the appellant with the opportunity to file a pro se supplemental

brief. No pro se supplemental brief or answering brief has been filed.

Our independent review of the record pursuant to *Penson v. Ohio*, 488 U.S.

75, 80–81 (1988), discloses no arguable grounds for relief on direct appeal.

In accordance with *United States v. Rivera-Sanchez,* 222 F.3d 1057, 1062

(9th Cir. 2000), we remand the case to the district court with instructions that it

delete from the judgment the incorrect reference to 8 U.S.C. § 1326(b)(2). *See*

United States v. Herrera-Blanco, 232 F.3d 715, 719 (9th Cir. 2000) (remanding

sua sponte to delete the reference § 1326(b)).

Accordingly, counsel's motion to withdraw is **GRANTED**, the district

court's judgment is **AFFIRMED,** and the case is **REMANDED.**