

OCT 3 2011

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>FERNANDO ALBERTO VELASQUEZ- BOSQUE,</p> <p style="text-align: center;">Defendant - Appellant.</p>
--

No. 10-50566

D.C. No. 8:07-cr-00275-JVS

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
James V. Selna, District Judge, Presiding

Submitted September 27, 2011\*\*

Before: HAWKINS, SILVERMAN, and W. FLETCHER, Circuit Judges.

Fernando Alberto Velasquez-Bosque appeals from the 84-month sentence imposed on remand for resentencing, following his jury conviction for being an illegal alien found in the United States following deportation, in violation of 8

---

\* 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).

U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291. We affirm, but remand to correct the judgment.

Velasquez-Bosque contends that the district court procedurally erred by placing excessive weight on the advisory Guidelines range and by treating the Guidelines range as presumptively reasonable. He also contends that his sentence is substantively unreasonable. The record reflects that the district court did not procedurally err, and that the sentence is substantively reasonable in light of the totality of the circumstances and the 18 U.S.C. § 3553(a) sentencing factors. *See United States v. Carty*, 520 F.3d 984, 992-93 (9th Cir. 2008) (en banc).

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 clerical error resulting in 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 to § 1326(b)).

**AFFIRMED; REMANDED to correct the judgment.**