

JAN 16 2013

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NOT FOR PUBLICATION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>v.</p> <p>SILVANO MORALES FLORES, a.k.a. Silvano Flores Morales,</p> <p style="text-align: center;">Defendant - Appellant.</p>

No. 11-50343

D.C. No. 2:11-cr-00118-GW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
George H. Wu, District Judge, Presiding

Submitted January 15, 2013**

Before: SILVERMAN, BEA, and NGUYEN, Circuit Judges.

Silvano Morales Flores appeals from the district court’s judgment and challenges his guilty-plea conviction and 46-month sentence for being an illegal alien found in the United States following deportation, in violation of 8 U.S.C.

* 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).

§ 1326. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), Morales Flores'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 Morales Flores 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 (1988), discloses no arguable grounds for relief on direct appeal. However, we remand the case to the district court with instructions to amend the judgment to delete the incorrect reference to 18 U.S.C. § 1326(a) and (b)(2) and replace it with the proper statute of conviction, 8 U.S.C. § 1326(a). In addition, the court should strike the special conditions of supervised release, which are only applicable in cases in which the court imposes a fine or restitution. *See* C.D. Cal. General Order 01-05.

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

AFFIRMED; REMANDED to correct the judgment.