

JUL 10 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROBERTO CHAVEZ-VALENCIA,

Defendant - Appellant.

No. 13-10076

D.C. No. 4:12-cr-00231-DCB

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
David C. Bury, District Judge, Presiding

Submitted June 25, 2014\*\*

Before: HAWKINS, TALLMAN, and NGUYEN, Circuit Judges.

Roberto Chavez-Valencia appeals from the district court’s judgment and challenges his guilty-plea conviction and 57-month sentence imposed for attempted reentry after deportation, in violation of 8 U.S.C. § 1326, and aggravated identity theft, in violation of U.S.C. § 1028A(a)(1). Pursuant to *Anders v.*

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\* 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).

*California*, 386 U.S. 738 (1967), Chavez-Valencia’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 Chavez-Valencia 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. Accordingly, the conviction and sentence are affirmed.

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 reference to section 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 section 1326(b)). The district court is further directed to modify the judgment to reflect a one-year term of supervised release as to Count 2. *See* 18 U.S.C. § 3583(b)(3).

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

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