**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| UNITED STATES OF AMERICA, | No. 09-10345 |
| Plaintiff - Appellee, | D.C. No. 2:09-cr-00190-MCE |
| v. | |
| MANUEL CRUZ-OCHOA, | MEMORANDUM[*] |
| Defendant - Appellant. | |

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, Jr., District Judge, Presiding

Submitted September 27, 2011[**]

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

Manuel Cruz-Ochoa appeals from his guilty-plea conviction and 51-month

sentence for being a deported alien found in the United States, in violation of 8

U.S.C. § 1326.  Pursuant to *Anders v. California*, 386 U.S. 738 (1967),

Cruz-Ochoa's counsel has filed a brief stating there are no grounds for relief, along

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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).

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.  We

dismiss in light of the valid appeal waiver.  *See United States v. Nguyen*, 235 F.3d

1179, 1182 (9th Cir. 2000).

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).  *See United States v.*

*Herrera-Blanco* , 232 F.3d 715, 719 (9th Cir. 2000) (remanding the sua sponte to

delete the reference to section 1326(b)).

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

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