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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NOT FOR PUBLICATION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.

HECTOR VALADEZ-GARCIA,

Defendant - Appellant.

No. 07-50406

D.C. No. CR-06-02345-H

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Marilyn L. Huff, District Judge, Presiding

Submitted December 17, 2008**

Before: GOODWIN, TROTT, and RYMER, Circuit Judges.

Hector Valadez-Garcia appeals from his guilty-plea conviction for being a deported alien found in the United States, in violation of 8 U.S.C. § 1326(a). We

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

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

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

Valadez-Garcia contends that the district court abused its discretion by denying his motions for substitution of counsel, resulting in a violation of his Sixth Amendment rights. The record discloses that the district court adequately inquired into the bases for the motions. *See United States v. McKenna*, 327 F.3d 830, 844 (9th Cir. 2003). Valadez-Garcia's contention that there was a total breakdown in communication is not supported by the record. We conclude that the district court did not abuse its discretion in denying the motions for substitute counsel. *See id.*

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 to § 1326(b)).

AFFIRMED; REMANDED to correct judgment.