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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

DONTE LEVON HOUSE,

Defendant and Appellant.

B282561

(Los Angeles County
Super. Ct. No. SA087057)

APPEAL from an order of the Superior Court of Los Angeles County, Lauren Weis Birnstein, Judge. Affirmed.

Law Offices of Ann-Marissa Cook, Ann-Marissa Cook, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

The trial court terminated defendant and appellant Donte Levon House's probation, sending him to prison for the previously imposed, but stayed, four-year term. On appeal, defendant's appointed counsel filed an opening brief in accordance with *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), requesting this court to conduct an independent review of the record to determine if there are any arguable issues on appeal.

On August 29, 2017, we gave notice to defendant that counsel had failed to find any arguable issues, and defendant had 30 days within which to submit by brief or letter any contentions or arguments he wished this court to consider. On September 26, 2017, defendant filed a letter in this court claiming (1) the court reporter was biased against him and omitted from the transcript three separate claims of ineffective assistance of counsel and requests for pro per status—on January 31, 2017,¹ February 17, 2017, and April 28, 2017, and added “misinformation” to the transcript detrimental to his case; (2) the trial court violated his right to face his accuser when it “dismissed”—i.e., excused—the alleged victim at the conclusion of her testimony; (3) the trial court improperly issued a bench warrant for his arrest and remanded him to custody for failing to appear for a hearing, and (4) he has evidence that casts doubt on the victim's account of the events leading to the probation revocation. We affirm.

¹ The initial record on appeal did not contain a transcript for the afternoon court session on January 31, 2017. On our own motion, we ordered the record augmented to include a transcript of that session.

BACKGROUND

On June 12, 2014, defendant pleaded no contest to a charge of injuring a cohabitant in violation of Penal Code section 273.5, subdivision (a). Under the plea agreement, the trial court imposed, but suspended, a four-year prison sentence and placed defendant on five years' formal probation with various conditions, including a protective order limiting contact with the victim, J.F., with whom he shared a child.

At the end of January 2017, defendant's probation officer filed a report seeking to have defendant's probation revoked for violating the terms of his probation. At the contested probation revocation hearing, the parties stipulated the initial stay-away protective order, issued September 14, 2014, had been modified on February 25, 2015, to a "do not disturb the peace" level one protective order.

After his conviction, defendant and J.F. agreed his visits with their daughter would be under the supervision of J.F. or the maternal grandmother. The last such visit occurred in October 2016. After that date, defendant failed to show up on time, and the scheduled visits were canceled. Defendant was upset with J.F. when he could not see their daughter.

Defendant texted J.F. in January 2017, demanding to see the child. He showed up unannounced at the maternal grandmother's house on January 21, 2017, but neither J.F. nor their daughter was there. Defendant then went to the home of J.F.'s boyfriend. J.F. and their daughter were there; the boyfriend was not.

Defendant spoke with J.F. through the screen door. She reminded him of the restraining order and told defendant she was going to call the police. Defendant left, but soon returned

and started calling J.F. on the telephone as he paced the sidewalk in front of the house. J.F. called the police.

Four days later, defendant left a note on J.F.'s car at her place of employment. The note concerned his desire to rekindle his relationship with J.F. Early in the morning on January 27, 2017, defendant telephoned J.F. several times, but she did not answer the phone. J.F. and her daughter were again at the boyfriend's house, and defendant showed up there at approximately 6:00 a.m. The boyfriend was also home.

Standing at the front door, defendant first accused the boyfriend of interfering with his child visitation and then struck him and tried to enter the home. The boyfriend pushed defendant into the front yard while J.F. called the police. Defendant fled before the police arrived.

Defendant was arrested, but released, later the same day. During the period from January 21, 2017, when defendant first appeared at the boyfriend's house, and January 27, 2017, the date of his arrest, defendant called or texted J.F. about 50 times per day.

The trial court found defendant violated his probation when he battered the boyfriend and disturbed the peace and harassed J.F. and ordered defendant to prison to serve his sentence.

DISCUSSION

Defendant's claims on appeal are unavailing. No evidence in the record supports his claim that the court reporter altered the record in any manner, either by omitting dialogue related to defendant's claims of ineffective assistance of counsel and

requests for pro per status or by adding detrimental misinformation.

Defendant confronted J.F.—the witness against him at the probation revocation hearing—when she testified and defense counsel cross-examined her. (*Delaware v. Fensterer* (1985) 474 U.S. 15, 20.) Defendant’s right to face his accuser was not violated when the trial court excused J.F. at the conclusion of her testimony.

Whether the trial court improperly issued a bench warrant and remanded defendant to custody for failing to appear for a hearing had no effect on the order finding him in violation of, and revoking, his probation.

Finally, defendant had the opportunity to present evidence at the probation revocation hearing. An appeal from the revocation of his probation is not the vehicle to bring new evidence before the court. (*In re Richards* (2012) 55 Cal.4th 948, 967.)

We have otherwise examined the entire record and are satisfied defendant’s counsel has fully complied with her responsibilities and that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.) Accordingly, we affirm the order.

DISPOSITION

The order is affirmed.

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DUNNING, J.*

We concur:

KRIEGLER, Acting P. J.

BAKER, J.

* Judge of the Orange Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.