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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

YPHET AMONT DANCY,

Defendant and Appellant.

F089227

(Super. Ct. No. F24902348)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Fresno County. Monica R. Diaz, Judge.

Rex Williams, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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\* Before Levy, Acting P. J., Detjen, J. and Meehan, J.

## **INTRODUCTION**

Appellant Yphet Amont Dancy (appellant) appeals from a conviction after a plea of no contest. Appellant has not obtained a certificate of probable cause. On appeal, appellate counsel filed a brief that summarized the facts with citations to the record, raised no issues, and asked this court to independently review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Appellant was notified of his right to file a supplement brief but has not done so. Having reviewed the record and finding no arguable issues, we affirm.

## **FACTUAL AND PROCEDURAL HISTORY**

On April 4, 2024, the Fresno County District Attorney's Office filed a felony complaint alleging appellant made criminal threats (Pen. Code, § 422)<sup>1</sup> and misdemeanor vandalism (§ 594, subd. (b)(1)). On April 5, 2024, appellant was arraigned and pled not guilty to the charges, and the trial court issued a criminal protective order pending trial.

On May 22, 2024, appellant entered a plea of no contest to felony making criminal threats, in exchange for the dismissal of the misdemeanor vandalism, a 16-month sentencing lid, and trial court indicated probation with 180 days' mental health treatment.

On July 8, 2024, appellant filed a motion to withdraw plea, which was granted. On September 6, 2024, following a preliminary hearing, appellant was held to answer. The People additionally moved to have appellant held to answer on a personal use of a weapon enhancement pursuant to section 12022, subdivision (b)(1) as to count 1 making criminal threats, which the trial court granted.

On September 12, 2024, the People filed an information charging appellant with making criminal threats (§ 422) with a personal use of a deadly weapon enhancement (§ 12022, subd. (b)(1)), and misdemeanor vandalism (§ 594, subd. (b)(1)).

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<sup>1</sup> Further undesignated references to code are to the Penal Code.

On November 12, 2024, appellant entered a plea of no contest to felony making criminal threats, in exchange for the dismissal of the remaining counts and enhancements and a 16-month sentencing lid. On December 12, 2024, appellant was denied probation, sentenced to 16 months and awarded 508 days' credit. Appellant was ordered to pay a \$300 restitution fine pursuant to section 1202.4, subdivision (b), a \$40 trial court operations assessment pursuant to section 1465.8, and a \$30 conviction assessment pursuant to Government Code section 70373.

Following sentencing, appellant was released from custody pursuant to section 1170, subdivision (a)(3), due to his custody credits exceeding the sentence imposed.

On January 21, 2025, appellant filed a notice of appeal indicating this appeal "is based on the sentence or other matters occurring after the plea that do not affect the validity of the plea."

### **DISCUSSION**

"[T]he constitutional right to assistance of counsel entitles an indigent defendant to independent review by the Court of Appeal when counsel is unable to identify any arguable issue on appeal. California's procedure for securing this right requires counsel to file a brief summarizing the proceedings and the facts with citations to the record, and requires the appellate court to review the entire record to determine whether there is any arguable issue." (*People v. Kelly* (2006) 40 Cal.4th 106, 119.)

"[A]n arguable issue on appeal consists of two elements. First, the issue must be one which, in counsel's professional opinion, is meritorious. That is not to say that the contention must necessarily achieve success. Rather, it must have a reasonable potential for success. Second, if successful, the issue must be such that, if resolved favorably to the appellant, the result will either be a reversal or a modification of the judgment." (*People v. Johnson* (1981) 123 Cal.App.3d 106, 109.)

The right to appeal following a guilty or no contest plea is controlled by section 1237.5, which on its face precludes an appeal unless an appellant files “a written statement, executed under oath or penalty of perjury showing reasonable constitutional, jurisdictional, or other grounds going to the legality of the proceedings.” (§ 1237.5, subd. (a).) A trial court further must execute and file a certificate of probable cause for such an appeal. (§ 1237.5, subd. (b).) However, a defendant need not apply for a certificate of probable cause if the notice of appeal states that the appeal is based on “grounds that arose after entry of the plea and do not affect the plea’s validity.” (*People v. Shelton* (2006) 37 Cal.4th 759, 766.)

Upon filing a notice of appeal, appellant indicated the appeal is “based on the sentence or other matters occurring after the plea that do not affect the validity of the plea.” Keeping in mind the limited scope of the appeal before us, this court has conducted an independent review of the record on appeal and is satisfied no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at pp. 441–443.)

### **DISPOSITION**

The judgment is affirmed.