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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

VINCENT TYRONE HARRIS,

Defendant and Appellant.

E063609

(Super.Ct.No. FVI1201622)

OPINION

APPEAL from the Superior Court of San Bernardino County. Debra Harris,  
Judge. Affirmed.

Dawn S. Mortazavi, under appointment by the Court of Appeal, for Defendant and  
Appellant.

No appearance for Plaintiff and Respondent.

In July 2012, pursuant to a plea agreement, defendant and appellant Vincent  
Tyron Harris pled no contest to conspiracy to commit robbery (Pen. Code, §§ 182,  
subd. (a)(1), 211). He also admitted to committing the offense for the benefit of, at the

direction of, or in association with a criminal street gang (Pen. Code, § 186.22, subd. (b)(1)(C)). In return, the remaining charges and allegations were dismissed and defendant was placed on formal probation for a period of 36 months on various terms and conditions, including serving 365 days in county jail.

Defendant subsequently violated probation for failing to report to his probation officer and cooperating in a plan of rehabilitation. After the trial court found defendant to be in violation of his probation, reinstatement of probation was denied and defendant was sentenced to state prison. Defendant appeals from the judgment based on the sentence or other matters occurring after the plea. We find no error and affirm the judgment.

## I

### FACTUAL AND PROCEDURAL BACKGROUND

On June 21, 2012, defendant and six other individuals attempted to rob a jewelry store in San Bernardino County.

On June 26, 2012, a first amended felony complaint was filed charging defendant with attempted second degree robbery (Pen. Code, §§ 664, 211; count 1) for the benefit of, at the direction of, or in association with a criminal street gang (Pen. Code, § 186.22, subd. (b)(1)(C)) and street terrorism (Pen. Code, § 186.22, subd. (a); count 2).

On July 11, 2012, the first amended felony complaint was amended by interlineation to add conspiracy to commit robbery (Pen. Code, §§ 182, subd. (a)(1), 211; count 3) for the benefit of, at the direction of, or in association with a criminal street gang (Pen. Code, § 186.22, subd. (b)(1)(C)). That same day, defendant pled no contest to

count 3 and admitted the attendant gang enhancement in exchange for a grant of probation on various terms and conditions, and dismissal of the remaining charges and enhancement allegation. After directly examining defendant, the trial court found that defendant read and understood his declaration under Penal Code section 859a; that the plea was entered into voluntarily, knowingly, and intelligently; and that there was a factual basis for the plea. Defendant was thereafter immediately sentenced in accordance with his plea agreement. He was placed on formal probation for a period of 36 months on various terms and conditions, including serving 365 days in county jail.

On October 15, 2013, a petition to revoke defendant's probation was filed. The petition alleged that defendant failed to report to his probation officer upon his release from custody and thereafter once every 14 days or as directed and that defendant failed to cooperate in a plan of rehabilitation and follow all reasonable directives of his probation officer.

Following a probation revocation hearing, on April 3, 2015, the trial court found defendant to be in violation of his probation. The trial court thereafter denied probation, and sentenced defendant to the middle term of three years for the conspiracy to commit robbery offense, plus a consecutive 10 years for the gang enhancement, for a total of 13 years in state prison. In addition, the trial court awarded defendant total credits of 269 days for time served pursuant to Penal Code section 2933.1.

Defendant filed a timely notice of appeal on May 20, 2015.

On August 6, 2015, defendant's appellate counsel filed a motion to correct sentencing errors with supporting exhibits in the trial court. Counsel argued that defendant should have been sentenced to five years for the gang enhancement rather than 10 years because conspiracy to commit robbery is a serious offense, not a violent felony. Counsel also asserted that because conspiracy to commit robbery is not a violent felony, defendant should have been awarded presentence custody credits pursuant to Penal Code section 4019. Therefore, defendant was entitled to 199 additional days of custody credits.

On December 2, 2015, the trial court granted defendant's motion to correct his sentence. The trial court sentenced defendant to the middle term of three years for the conspiracy to commit robbery offense, plus a consecutive term of five years for the gang enhancement, for a total term of eight years in state prison. The court also corrected defendant's presentence custody credits to be calculated under Penal Code section 4019, and awarded defendant 477 actual days, plus 477 days for conduct credits, for a total of 954 days for time served.

II

DISCUSSION

After defendant appealed, upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case, a summary of the facts and potential arguable issues, and requesting this court conduct an independent review of the record. We offered defendant an opportunity to file a personal supplemental brief, and he has not done so.

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the entire record for potential error and find no arguable error that would result in a disposition more favorable to defendant.

III

DISPOSITION

The judgment is affirmed.

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RAMIREZ

P. J.

We concur:

HOLLENHORST

J.

McKINSTER

J.