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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.

JUAN FRANCISCO CORTEZ,

Defendant and Appellant.

E063971

(Super.Ct.No. INF1302211)

OPINION

APPEAL from the Superior Court of Riverside County. Dale R. Wells, Judge.

Affirmed.

Anthony J. Dain, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Juan Cortez received a six-year sentence in 2013 after pleading guilty to residential burglary, making criminal threats, and dissuading a witness, along with an enhancement for personally using a firearm. Defendant appeals from the denial of his motion to recall his sentence. We affirm.

## **FACTS AND PROCEDURE**

On August 20, 2013, defendant entered an apartment in Palm Springs, used a firearm to make criminal threats against an occupant of the apartment, and attempted to dissuade a witness from reporting these crimes. It appears from the felony complaint that defendant at this time also kidnapped another occupant of the apartment.

On September 9, 2013, defendant pled guilty to first degree burglary (Pen. Code, § 459),<sup>1</sup> making criminal threats (§ 422) and dissuading a witness (§136.1, subd. (c)(1)), along with a misdemeanor violation of a protective order (§ 273.6, subd. (a)). Defendant admitted to personally using a firearm when he made the criminal threats (§ 12022.5). Also on that date the trial court sentenced defendant, as agreed, to the upper term of three years for the criminal threats, plus a consecutive sentence of three years for the firearm enhancement, with concurrent terms on the other counts.

On May 21, 2015, defendant filed a form motion entitled “Notice of Request to Recall Sentence (Penal Code § 1170(D)).” On that same date the court denied the motion.

This appeal followed.

## **DISCUSSION**

Upon defendant’s 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 and potential

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise indicated.

arguable issues. Counsel has also asked this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

**DISPOSITION**

The court's order denying defendant's petition is affirmed.

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RAMIREZ  
P. J.

We concur:

HOLLENHORST  
J.

McKINSTER  
J.