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

THE PEOPLE,

Plaintiff and Respondent,

v.

STEVEN MICHAEL SHOEMAKER, JR.,

Defendant and Appellant.

F063856

(Super. Ct. No. VCF237241)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Tulare County. Kathryn T. Montejano, Judge.

Gabriel C. Vivas, 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 Cornell, Acting P.J., Kane, J., and Poochigian, J.

STATEMENT OF THE CASE

On November 10, 2010, appellant, Steven Michael Shoemaker, Jr., was sentenced to a total prison term of five years after he was convicted of one count of Penal Code section 273.5, subdivision (a).¹ Allegations that he had a prior prison term enhancement and a prior serious felony conviction under the three strikes law were also found true. On August 25, 2011, this court issued its opinion affirming appellant's conviction.² At the sentencing hearing, the trial court awarded \$2,800 in restitution pursuant to section 1202.4, subdivision (b) and suspended an identical award pursuant to section 1202.45.

On August 25, 2011, the People noticed a motion seeking victim restitution in the amount of \$5,408.63. On October 4, 2011, the trial court conducted a hearing and awarded victim restitution of \$5,408.63. Appellant lodged no objection to the request for restitution. Appellant filed a timely notice of appeal.

APPELLATE COURT REVIEW

Appellant's appointed appellate counsel has filed an opening brief that summarizes the pertinent facts, raises no issues, and requests this court to review the record independently. (*People v. Wende* (1979) 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating that appellant was advised he could file his own brief with this court. By letter on March 12, 2012, we invited appellant to submit additional briefing. To date he has not done so.

After independent review of the record, we have concluded there are no reasonably arguable legal or factual issues.

¹ Unless otherwise indicated, all statutory references are to the Penal Code.

² Appellant requests that we take judicial notice of his entire trial and our opinion in his first appeal, case No. F061450. We grant appellant's request to take judicial notice of our opinion in his first appeal. Appellant's request for judicial notice of the trial proceedings is limited to the trial court's rulings at his sentencing hearing and the abstract of judgment.

DISPOSITION

The trial court's victim restitution order is affirmed.