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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

THE PEOPLE, Plaintiff and Respondent, v. ISAAC SOTELLO, Defendant and Appellant.	F041077 (Super. Ct. No. 46685) **OPINION**

THE COURT*

APPEAL from a judgment of the Superior Court of Tulare County. Paul A. Vortmann, Judge.

John F. Schuck, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Jo Graves, Assistant Attorney General, and Carlos A. Martinez, Deputy Attorney General, for Plaintiff and Respondent.

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* Before Dibiaso, Acting P.J., Buckley, J., and Cornell, J.

Appellant Isaac Sotello was found guilty after a jury trial of receiving stolen property. An allegation Sotello had suffered a prior serious felony conviction within the three strikes law was found true. The allegation was based on Sotello's admission that he committed assault with a deadly weapon. In case No. F035027, we found insufficient evidence that Sotello personally used a firearm in the commission of his prior offense and remanded this action for the trial court to determine whether Sotello personally used a firearm in the commission of the prior serious felony.

On remand, the trial court conducted a jury trial in which the jury was instructed that in determining whether Sotello suffered a conviction for assault with a deadly weapon, it had to find that Sotello personally used a firearm in the commission of the offense. The jury found the allegation true. The trial court sentenced Sotello to prison for the midterm of two years, which was doubled pursuant to the three strikes law. The court added a consecutive term of one year to Sotello's sentence for a prior prison term enhancement. The court imposed a restitution fine and granted Sotello applicable custody credits.

Sotello's appointed appellate counsel has filed an opening brief which summarizes the pertinent facts, raises no issues, and requests this court independently to review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating that Sotello was advised he could file his own brief with this court. By letter of October 10, 2002, we invited Sotello to submit additional briefing. Sotello responded with a supplemental brief raising issues concerning sufficiency of the evidence and the trial court's response to two questions from the jury. We have found no merit to these issues.

After independent review of the record, we have concluded no reasonably arguable legal or factual argument exists.

The judgment is affirmed.