

NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION ONE

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STATE OF ARIZONA, *Appellee*,

*v.*

DAVID AUSTIN CRUM, *Appellant*.

No. 1 CA-CR 16-0468  
FILED 4-6-2017

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Appeal from the Superior Court in Maricopa County  
No. CR2013-440987-001  
The Honorable Margaret R. Mahoney, Judge

**RESTITUTION AWARD AFFIRMED**

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COUNSEL

Arizona Attorney General's Office, Phoenix  
By Michael Valenzuela  
*Counsel for Appellee*

Maricopa County Public Defender's Office, Phoenix  
By Terry Reid  
*Counsel for Appellant*

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**MEMORANDUM DECISION**

Judge Maurice Portley<sup>1</sup> delivered the decision of the Court, in which Presiding Judge Samuel A. Thumma and Chief Judge Michael J. Brown joined.

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**P O R T L E Y**, Judge:

¶1 David Austin Crum appeals the restitution order pursuant to *Anders v. California*, 386 U.S. 738 (1967). For the following reasons, we affirm the order.

**FACTS AND PROCEDURAL BACKGROUND**

¶2 A jury convicted Crum of one count of sexual assault and one count of kidnapping, both class 2 felonies, one count of misdemeanor assault, and three counts of sexual abuse, class 5 felonies. The jury found several aggravating circumstances related to the felony convictions, and Crum was subsequently sentenced to ten years in prison, concurrently, on the two felonies; six months' imprisonment on the misdemeanor assault conviction, with credit for the six months he had served; and his sentence was suspended on the sexual abuse convictions. Crum was also placed on lifetime supervised probation and ordered to register as a sex offender. Crum then filed a notice of appeal challenging his convictions.<sup>2</sup>

¶3 Subsequently, the State filed a motion for a restitution hearing, that was granted and a restitution hearing was set. Crum waived his appearance at the hearing, and the victim testified telephonically. The victim testified that she was seeking to recover wages for the loss of one month's wages as a part-time worker, and the medication she had to purchase after the assault. The trial court ordered Crum to pay the sum of

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<sup>1</sup> The Honorable Maurice Portley, Retired Judge of the Court of Appeals, Division One, has been authorized to sit in this matter pursuant to Article VI, Section 3 of the Arizona Constitution.

<sup>2</sup> This court affirmed Crum's convictions, but modified his sentence to give him an additional day of presentence credit. *State v. Crum*, No. 1 CA-CR 16-0014 (Ariz. App. March 28, 2017) (mem. decision).

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\$977.24 to the victim for lost wages, and \$161.07 for medications she had to purchase, for a total of \$1,138.31. Crum then filed a notice of appeal and we have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1), 13-4031, and 13-4033(A).

**DISCUSSION**

¶4 This is an appeal under *Anders, supra*, and *State v. Leon*, 104 Ariz. 297 (1969). Counsel for Crum has advised us that, after searching the entire record, she has been unable to discover any arguable questions of law, and has filed a brief requesting us to conduct an *Anders* review of the record. Crum was given the opportunity to file a supplemental brief, but did not file one.

¶5 We have read and considered the opening brief, and have searched the record for reversible error related to the restitution order. We find none. *See Leon*, 104 Ariz. at 300.

¶6 A victim can recover economic damage losses resulting from a defendant's acts, which includes lost wages and out of pocket expenses. A.R.S. §§ 13-105(16), 13-603(C); *State v. Lindsey*, 191 Ariz. 195, 197-98 (App. 1997). Here, the court conducted a restitution hearing after Crum was convicted, and there was evidence of the victim's lost wages and out of pocket expenses for medications related to Crum's assault. The court considered the testimony of the victim, including cross-examination and argument by Crum's counsel challenging the full amount of medications, as well as challenging the request for lost wages given that the victim was paid for some of her time away from work after the assault. The court then determined the amount of restitution Crum would owe to the victim. Consequently, the court did not abuse its discretion by ordering restitution or the amount of restitution.

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CONCLUSION

¶7 After this decision has been filed, counsel's obligation to represent Crum on the restitution issue has ended. Counsel need do no more than inform Crum of the status of this appeal and his future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. *See State v. Shattuck*, 140 Ariz. 582, 584-85 (1984). Crum can, if desired, file a motion for reconsideration or petition for review pursuant to the Arizona Rules of Criminal Procedure.

¶8 Accordingly, we affirm the restitution order.



AMY M. WOOD • Clerk of the Court  
FILED: AA