
David H. Rigdon
Nevada Law Journal

Follow this and additional works at: http://scholars.law.unlv.edu/nvscs
Part of the Criminal Law Commons, and the Criminal Procedure Commons

Recommended Citation
http://scholars.law.unlv.edu/nvscs/104

This Case Summary is brought to you by Scholarly Commons @ UNLV Law, an institutional repository administered by the Wiener-Rogers Law Library at the William S. Boyd School of Law. For more information, please contact david.mcclure@unlv.edu.
An appeal from a judgment of conviction that imposed restitution in an uncertain amount. Slaatte argued that Nevada law requires that a district court set a fixed amount of restitution when it determines that restitution is appropriate as part of a sentence.

Appeal dismissed. Because the judgment of conviction contemplates restitution in an uncertain amount, it is not a final order and therefore is not appealable.

Appellant, Jon Robert Slaatte, pleaded guilty to a single count of lewdness with a child under 14 years of age. At his sentencing hearing the district court imposed a sentence of life in prison with the possibility of parole after 10 years. The district court also determined that restitution was appropriate and ordered Slaatte to appear at 9 a.m. on a Tuesday law-and-motion calendar within 60 days after his release from prison “to have [the district] Court determine what restitution for victim compensation that will be ordered at that time.” Slaatte filed a timely appeal challenging the order of restitution. The State conceded the error and urged the Court to remand the matter so that restitution could be specified.

A three justice panel of the Supreme Court of Nevada issued a per curiam opinion.

The Court agreed that the district court clearly erred noting that N.R.S. 176.033(1)(c) requires a district court to set an amount of restitution. N.R.S. 176.105(1)(c) further requires that the sentence must include the “amount and terms” of the restitution. Consistent with these statutory mandates the Court has held that a district court is not allowed “to award restitution in uncertain terms.” In cases where a district court violated this prescription, the court has historically remanded the proceedings for the district court to set a specific amount of restitution.

1 By David H. Rigdon.
3 The case was heard before C.J. Pickering and J.J. Hardesty and Saitta.
The court noted, however, that none of those prior decisions addressed the issue of whether the judgment was final despite being non-compliant with N.R.S. 176.105(1). On this point the Court found the recent decision in *Whitehead v. State*, 285 P.3d 1053 (Nev. 2012) to be controlling. In that case the Court stated “that a judgment of conviction that imposes a restitution obligation but does not specify its terms is not a final judgment” and therefore it did not trigger the one-year period for filing a habeas petition. Given the decision in Whitehead, the Court concluded that an appeal of a judgment of conviction based on indeterminable restitution is not appealable and therefore the Court lacks jurisdiction to consider it.

**Conclusion**

A judgment of conviction which includes a sentence of restitution in an uncertain amount is not final and, thus, not appealable. Lacking jurisdiction, the Court dismissed the appeal.

---