

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BRIAN MARCUS WILSON,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 69211

**FILED**

**APR 20 2016**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order denying a postconviction petition for a writ of habeas corpus.<sup>1</sup> Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

The district court denied appellant Brian Wilson's September 3, 2015, petition, request for appointment of counsel, and request for an evidentiary hearing after finding that Wilson failed to show good cause to overcome the procedural bars to his petition and rebut the State's claim of laches.

On appeal, Wilson claims the district court erred in finding that his petition was untimely filed. Wilson asserts his petition was filed within a year of entry of the amended judgment of conviction. And, Wilson argues the original judgment of conviction was not an appealable final judgment under *Whitehead v. State*, 128 Nev. 259, 285 P.3d 1053 (2012), and *Slaatte v. State*, 129 Nev. \_\_\_, 298 P.3d 1170 (2013), because it

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<sup>1</sup>This appeal has been submitted for decision without oral argument. NRAP 34(f)(3).

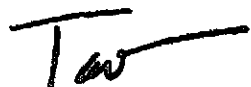
did not set the correct amount of restitution. We conclude that Wilson's reliance on these opinions is misplaced.

In *Whitehead*, the Nevada Supreme Court held "that a judgment of conviction that imposes a restitution obligation but does not specify its terms is not a final judgment" and therefore it does not trigger the one-year period for filing a habeas petition. 128 Nev. at 263, 285 P.3d at 1055. And, in *Slaatte*, the Nevada Supreme Court held that a "judgment of conviction [that] contemplates restitution in an uncertain amount . . . is not final therefore is not appealable." 129 Nev. at \_\_\_, 298 P.3d at 1171.

Here, unlike in *Whitehead* and *Slaatte*, the original judgment of conviction sets forth Wilson's restitution obligation in certain terms and specific dollar amounts; therefore, it constituted an appealable final judgment and triggered the one-year statutory period for filing a postconviction habeas petition. See NRS 34.726(1); NRS 176.105(1). We conclude the district court properly rejected Wilson's good cause argument and found his petition was procedurally barred. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Gibbons

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Jessie Elizabeth Walsh, District Judge  
Brian Marcus Wilson  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk