

**IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK**

RICHARD LEE MITCHELL,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

Supreme Court No. 83390
District Court Case No. A830001;C332717

NOTICE OF REJECTION OF UNTIMELY PETITION

TO: Richard Lee Mitchell

The petition for rehearing/reconsideration/review is being returned unfiled because it was not timely submitted. NRAP 40(f)/40A(h)/40B(c).

DATE: August 03, 2022

Elizabeth A. Brown, Clerk of Court

By: Monique Mercier
Deputy Clerk

Notification List

Electronic

Clark County District Attorney \ Alexander G. Chen, Chief Deputy District
Attorney
Attorney General/Carson City \ Aaron D. Ford, Attorney General

RICHARD L. MITCHELL

#1209011

SOCC

P.O. BOX 208

INDIAN SPRINGS, NV 89070

PETITIONER-IN PROPER PERSON

RETURNED
UNFILED

AUG 03 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT

BY DEPUTY CLERK

SUPREME COURT OF THE
STATE OF NEVADA

RICHARD L. MITCHELL
APPELLANT,

No. 83390-COA

VS,

* EN-BANC Hearing Requested

THE STATE OF NEVADA
RESPONDENT.

NOTICE OF MOTION

* RULE 60(b)
MOTION FOR RECONSIDERATION *

DUE TO CONFLICT WITH NRS. 176-105

COMES NOW, APPELLANT RICHARD L. MITCHELL, IN AND
THROUGH HIS PROPER PERSON, REQUESTING THIS HONORABLE
COURT TO RECONSIDER THE DECISION TO DENY AP-
PELLANT WRIT OF HABEAS CORPUS POST-CONVICTION
RELIEF IN ORDER OF AFFIRMANCE FILED JUN 23, 2022.

DATED THIS: 24th DAY OF JULY, 2022

Richard L. Mitchell
#1209011

RECEIVED

AUG 03 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

OPENING STATEMENT

APPEAL SHOULD BE GRANTED DO TO ERRONEOUS RESPONSE APPELLANT BELIEVES THE ERROR(S) IN THE ORDER OF AFFIRMANCE ARE BY A GENUINE MISTAKE AND NOT BY DESIGN TO WIT:

ACCORDING TO NRS. 176.105 JUDGEMENT IN CRIMINAL ACTION GENERALLY; THE FINDING OF FACTS AND CONCLUSION OF LAW AND ORDER AS FOUND IN JUDGEMENT OF CONVICTION IS NOT FINAL WITHOUT SPECIFIC AMOUNT OF RESTITUTION AND FINAL JUDGEMENT MUST SET FORTH SPECIFIC DOLLAR AMOUNT RESTITUTION

ARGUMENT:

SUPREME COURT OF NEVADA CONCLUDES THAT A JUDGEMENT OF CONVICTION THAT IMPOSES RESTITUTION BUT DOES NOT SET AN AMOUNT OF RESTITUTION, IN VIOLATION OF REV. STAT. § 176.105(1), IS NOT FINAL AND THEREFORE DOES NOT TRIGGER THE ONE-YEAR TIME LIMIT FOR FILING A POST-CONVICT PETITION FOR A WRIT OF HABEAS CORPUS. WHITEHEAD V. STATE, 128 NEV. 259, 285 P.3d 1053, 128 NEV. ADV. REP. 24, 2012 NEV. LEXIS 63 (NEV. 2012).

WHEN THE DISTRICT COURT DETERMINED THAT RESTITUTION WAS APPROPRIATE AS PART OF A SENTENCE, IT HAD TO INCLUDE THE AMOUNT AND TERMS OF THE RESTITUTION IN THE JUDGEMENT OF CONVICTION, NEV. REV. STAT. § 176.105(1)(c);

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BECAUSE THE JUDGEMENT OF CONVICTION CONTEMPLATED RESTITUTION
IN AN UNCERTAIN AMOUNT, IT WAS NOT FINAL AND THEREFORE
WAS NOT APPEALABLE; NEV. REV. STAT § 177.015(3), AND THE NEVADA
SUPREME COURT LACKED JURISDICTION OVER THE APPEAL.

SLAATTE V. STATE, 129 NEV. 219, 298 P3d 1170, 129 NEV. ADV.
REP. 23, 2013 NEV. LEXIS 29 (NEV. 2013).

FINAL JUDGEMENT MUST SET FORTH SPECIFIC DOLLAR
AMOUNT OF RESTITUTION

DATED THIS: 24TH DAY OF JULY, 2022

Richard L. Mitchell

#1209011

RICHARD L. MITCHELL