

**Commonwealth of Kentucky**

**Court of Appeals**

NO. 2012-CA-001567-MR

WILLIAM THOMAS SLATTEN

APPELLANT

v.

APPEAL FROM FAYETTE CIRCUIT COURT  
HONORABLE PAMELA R. GOODWINE, JUDGE  
ACTION NOS. 03-CR-00449 AND 04-CR-00030

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: NICKELL, STUMBO, COMBS, JUDGES.

COMBS, JUDGE: William Slatten appeals the order of the Fayette Circuit Court which denied his motion to vacate judgment pursuant to Kentucky Rule[s] of Civil Procedure (CR) 60.02. Following review of the record and the law, we affirm.

Slatten was indicted on two counts of theft by failure to make required disposition, thirty-four counts of theft by deception over \$300,<sup>1</sup> and four counts of theft by deception under \$300 on April 22, 2003. Several months later, on January 12, 2004, Slatten was indicted on fourteen counts of theft by deception over \$300 and two counts of theft by deception under \$300. On January 27, 2006, Slatten entered two pleas of guilty.

Under the 2003 indictment, Slatten pled guilty to the two counts of theft by failure to make required disposition and six of the counts of theft by deception over \$300. Under the 2004 indictment, he pled guilty to four counts of theft by deception over \$300. Sentencing took place on February 24, 2006. The court sentenced Slatten to serve a total of fifteen (15) years for the 2003 charges and a total of five years (5) for the 2004 charges. The sentences were to be served consecutively for a total of twenty (20) years.

The court probated both of Slatten's sentences for five years. However, Slatten's probation was revoked in 2010 due to his failure to comply with all the conditions of probation. On May 22, 2012, Slatten filed a motion seeking relief pursuant to CR 60.02. The trial court denied the motion on August 22, 2012, and this appeal follows.

Slatten argued in his motion and now argues on appeal that because his crimes were committed as part of one spree, they constituted one act. Thus, he

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<sup>1</sup> In 2003, theft by unlawful taking over \$300 was a felony offense; in 2009, the statute was amended to raise the felony threshold to \$500. Kentucky Revised Statute[s] (KRS) 514.030.

contends that it was improper for him to have received a sentence in excess of five years.

There is no merit to Slatten's claim that his offenses were actually one act. This Court carefully reviewed the record. Slatten wrote checks from a non-existent account on at least fifty-six (56) occasions. The sham purchases took place over a period spanning more than two years. The list of victims is long and varied. Therefore, we cannot conclude that it was error for him to receive separate charges and sentences.

Additionally, KRS 532.110(1)(c) provides that "[t]he aggregate of consecutive indeterminate terms shall not exceed in maximum length the longest extended term which would be authorized by KRS 532.080<sup>2</sup> for the highest class of crime for which any of the sentences is imposed." Slatten's offenses were all Class D felonies. KRS 532.080(6)(b) directs that the maximum sentence that can be imposed for multiple Class D felonies is twenty years of incarceration. Since that is the sentence that Slatten is serving, no error has occurred.

Slatten also argues that some of his offenses had been reclassified as misdemeanors, rendering his sentence erroneous. We are unable to address the merits of this claim because Slatten has not made it with any specificity. See *Stoker v. Commonwealth*, 289 S.W.3d 592, 597 (Ky. App. 2009). Nonetheless, we note that KRS 446.110 permits application of a new law when judgment is

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<sup>2</sup> This statute provides guidelines for persistent felony offenders.

pronounced after its enactment – even if the offense had been committed prior to the effective date of the new law. In Slatten’s case, he argues that laws enacted in 2011 should be applied. However, the trial court entered its judgment in 2006. It could not have applied a law that did not exist, and Slatten has not provided any authority suggesting otherwise.

We affirm the Fayette Circuit Court.

ALL CONCUR.

BRIEF FOR APPELLANT:

William Thomas Slatten  
Lexington, Kentucky

BRIEF FOR APPELLEE:

Jack Conway  
Attorney General

Heather M. Fryman  
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