

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUNIOR HALL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 43710

FILED

NOV 24 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant Junior Hall's motion to withdraw his guilty plea, motion for appointment of counsel, motion for evidentiary hearing, and motion to produce prisoner. Eighth Judicial District Court, Clark County; John S. McGroarty, Judge.

On December 18, 2002, the district court convicted Hall, pursuant to a guilty plea, of sexual assault on a minor under fourteen. The district court sentenced Hall to serve a term of life in the Nevada State Prison with the possibility of parole after twenty years. Hall did not file a direct appeal.

On September 30, 2003, Hall filed a proper person post-conviction petition for a writ of habeas corpus in the district court. On November 5, 2003, the district court denied Hall's petition. This court affirmed the order of the district court on appeal.<sup>1</sup>

On June 15, 2004, Hall filed a proper person motion to withdraw his guilty plea in the district court. Hall additionally filed a

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<sup>1</sup>Hall v. State, Docket No. 42570 (Order of Affirmance, June 28, 2004).

motion for appointment of counsel, motion for evidentiary hearing, and motion to produce prisoner. The State opposed the motions. On July 15, 2004, the district court denied Hall's motions. This appeal followed.<sup>2</sup>

In Hall's motion to withdraw his guilty plea, he contended that his guilty plea was unknowingly entered because he was not informed of the intricacies of lifetime supervision. Hall claimed that another prisoner recently informed him of the burdensome requirements of lifetime supervision.

This court has held that a motion to withdraw a guilty plea is subject to the equitable doctrine of laches.<sup>3</sup> Application of the doctrine requires consideration of various factors, including: "(1) whether there was an inexcusable delay in seeking relief; (2) whether an implied waiver has arisen from the defendant's knowing acquiescence in existing conditions; and (3) whether circumstances exist that prejudice the State."<sup>4</sup> Failure to identify all grounds for relief in a prior proceeding seeking relief from a judgment of conviction should weigh against consideration of a successive motion.<sup>5</sup>

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<sup>2</sup>We conclude that the district court did not abuse its discretion in denying Hall's request for appointment of counsel. Further, for the reasons discussed below, the district court did not err in failing to conduct an evidentiary hearing; because no evidentiary hearing was conducted, the district court properly denied Hall's motion to produce prisoner. See NRS 209.274.

<sup>3</sup>See Hart v. State, 116 Nev. 558, 1 P.3d 969 (2000).

<sup>4</sup>Id. at 563-64, 1 P.3d at 972.


<sup>5</sup>Id. at 564, 1 P.3d at 972.

Based upon our review of the record on appeal, we conclude that Hall's motion is subject to the equitable doctrine of laches. Hall filed his motion a year and half after the judgment of conviction was entered. We conclude that he failed to provide an adequate explanation for this delay. Further, Hall previously filed a post-conviction petition for a writ of habeas corpus in which he challenged the voluntariness of his guilty plea. Hall failed to demonstrate that he was unable to present this claim in his prior petition. Finally, it appears that the State would suffer prejudice if it were forced to proceed to trial after such an extensive delay. Consequently, we conclude that the doctrine of laches precludes consideration of Hall's motion on the merits.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that Hall is not entitled to relief and that briefing and oral argument are unwarranted.<sup>6</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Becker

  
\_\_\_\_\_, J.  
Agosti

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

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<sup>6</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

cc: Hon. John S. McGroarty, District Judge  
Junior Hall  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk