

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROLAND A. VANSLUYTMAN A/K/A
ROLAND A. VAN SLUYTMAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 45735

FILED

NOV 07 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying appellant's motion to withdraw his guilty plea. Eighth Judicial District Court, Clark County; Jackie Glass, Judge.

On March 11, 1999, the district court convicted appellant, pursuant to a guilty plea, of attempted sexual assault, a felony, and impersonating an officer, a gross misdemeanor. The district court sentenced appellant to 48 to 120 months in the Nevada State Prison for the sexual assault and one year in the Clark County Detention Center for the impersonation, with the sentences to run concurrently. The district court also sentenced appellant to lifetime supervision. No direct appeal was taken.

On April 7, 1999, appellant filed in the district court a proper person post-conviction petition for a writ of habeas corpus. On June 23, 1999, the district court denied appellant's petition. This court dismissed appellant's subsequent appeal.¹

On January 2, 2005, appellant filed in the district court a motion to correct an illegal sentence. The State opposed the motion. On

¹Van Sluytman v. State, Docket No. 34509 (Order Dismissing Appeal, December 6, 1999).

February 25, 2005, the district court denied the motion. Appellant did not appeal the denial of the motion.

On May 24, 2005, appellant filed in the district court a motion to withdraw his guilty plea. The State opposed the motion. On July 21, 2005, the district court denied the motion. This appeal followed.

In his motion, appellant contended that his guilty plea was invalid because the written plea agreement did not specify that he would be sentenced to lifetime supervision and the district court's plea canvass made no mention of lifetime supervision. Appellant contended he was not informed he would be sentenced to lifetime supervision until the district court so sentenced him at the sentencing hearing.

This court has held that a motion to withdraw a guilty plea is subject to the equitable doctrine of laches.² 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."³ 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.⁴

Based upon our review of the record on appeal, we conclude that appellant's motion is subject to the equitable doctrine of laches. Appellant filed his motion more than six years after he was sentenced. Appellant failed to provide any explanation for the delay. The special sentence of lifetime supervision was imposed as part of appellant's

²See Hart v. State, 116 Nev. 558, 1 P.3d 969 (2000).


³Id. at 563-64, 1 P.3d at 972.


⁴Id. at 564, 1 P.3d at 972.


sentence on February 9, 1999. Appellant previously pursued a petition for habeas corpus and a motion to correct an illegal sentence. Appellant failed to indicate why he was not able to present this claim prior to the filing of the instant motion. Finally, it appears that the State would suffer prejudice if it were forced to proceed to trial after such an extensive delay. Accordingly, we conclude that the doctrine of laches precludes consideration of appellant's motion on the merits.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.⁵ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Hardesty

cc: Honorable Jackie Glass, District Judge
Roland A. Vansluytman
Attorney General
Clark County District Attorney David J. Roger
Clark County Clerk

⁵See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).