

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER R. HUBBLE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 46779

FILED

JUL 10 2006

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

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

On April 29, 2004, the district court convicted appellant, pursuant to a guilty plea, of second-degree murder with the use of a deadly weapon. The district court sentenced appellant to serve two consecutive terms of life in the Nevada State Prison with the possibility of parole after serving ten years. Appellant did not file a direct appeal.

On December 12, 2005, appellant filed a post-conviction proper person motion to withdraw guilty plea in the district court. The State opposed the motion. On January 24, 2006, the district court denied appellant's motion. This appeal followed.

In his motion, appellant contended that the district court was without jurisdiction to sentence him because appellant did not waive his right to a grand jury indictment.¹

¹See Nev. Const. art. I, § 8; NRS 172.015; NRS 173.015; NRS 173.025; NRS 173.035.

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

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 approximately eighteen months after the judgment of conviction was entered. Appellant failed to demonstrate that he was not able to present his claims in a timely 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. Moreover, as a separate and independent ground for denial, appellant's claim is wholly without merit. A prosecution may be initiated by either the filing of a grand jury presentment or indictment or the filing of an information.⁴ Appellant's case originated with the filing of an information.


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

³Id. at 563-64, 1 P.3d at 972.


⁴See Nev. Const. art. 1, § 8; NRS 172.015; NRS 173.015; NRS 173.025; NRS 173.035.

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: Hon. Donald M. Mosley, District Judge
Christopher R. Hubble
Attorney General George Chanos/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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