

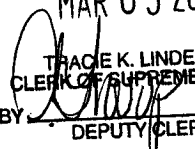
IN THE SUPREME COURT OF THE STATE OF NEVADA

VICTOR GONCHAROFF,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 50150

FILED

ORDER OF AFFIRMANCE

MAR 05 2008
TRACE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

This is a proper person appeal from an order of the district court denying a motion to withdraw a guilty plea. Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

On April 16, 2004, the district court convicted appellant, pursuant to a guilty plea, of two counts of attempted burglary. The district court sentenced appellant to serve two consecutive terms of 22 to 60 months in the Nevada State Prison. No direct appeal was taken. Appellant unsuccessfully sought post-conviction relief by way of a post-conviction petition for a writ of habeas corpus.¹ The district court entered a corrected judgment of conviction on November 21, 2005, reflecting that appellant was convicted of two counts of attempted robbery and not two counts of attempted burglary.

On June 20, 2007, appellant filed a proper person motion to withdraw a guilty plea in the district court. On August 13, 2007, the district court denied appellant's motion. This appeal followed.²

¹Goncharoff v. State, Docket No. 45589 (Order Affirming and Remanding for Entry of Corrected Judgment of Conviction, November 17, 2005).

²Appellant also filed a motion for order compelling the production of documents which the district court denied on August 13, 2007. To the extent that appellant sought to appeal from the denial of that motion, we
continued on next page . . .

In his motion, appellant claimed that he received ineffective assistance of counsel and that his guilty plea was unknowingly and involuntarily entered. Although the district court summarily denied the motion on the merits, we conclude that this motion was subject to the equitable doctrine of laches.³

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.”⁴ 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.⁵

In the instant case, appellant filed his motion more than three years after the judgment of conviction was entered. Appellant failed to provide any explanation for the delay. Appellant previously pursued a post-conviction petition for a writ of habeas corpus. Appellant failed to indicate why he was not able to present his claims 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, and we affirm the order

... continued

conclude that the district court did not err in concluding that motion lacked merit.

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


⁴Id. at 563-64, 1 P.3d at 972.

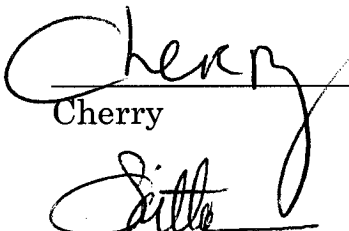
⁵Id. at 564, 1 P.3d at 972.


of the district court because the district court reached the correct result in denying the motion.⁶

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.⁷ Accordingly, we

ORDER the judgment of the district court AFFIRMED.⁸


_____, J.
Maupin


_____, J.
Cherry


_____, J.
Saitta

⁶See Kraemer v. Kraemer, 79 Nev. 287, 291, 382 P.2d 394, 396 (1963) (holding that a correct result will not be reversed simply because it is based on the wrong reason).

⁷See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

⁸We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

cc: Hon. Brent T. Adams, District Judge
Victor Goncharoff
Attorney General Catherine Cortez Masto/Carson City
Washoe County District Attorney Richard A. Gammick
Washoe District Court Clerk