

IN THE SUPREME COURT OF THE STATE OF NEVADA

PIERCE JERROL JONES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 52475

**FILED**

MAR 03 2009

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion to withdraw a guilty plea. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

On December 28, 2005, the district court convicted appellant, pursuant to a guilty plea, of one count of robbery. The district court adjudicated appellant a habitual criminal and sentenced him to serve a term of five to twenty years in the Nevada State Prison. No direct appeal was taken.

On December 7, 2006, appellant filed a proper person post-conviction petition for a writ of habeas corpus. The State opposed the petition. On March 26, 2007, the district court denied the petition. This court affirmed the decision of the district court on appeal. Jones v. State, Docket No. 49287 (Order of Affirmance, January 8, 2008).

On August 28, 2008, appellant filed a proper person motion to withdraw a guilty plea in the district court. The State opposed the motion. On October 3, 2008, the district court denied the motion. This appeal followed.

In his motion, appellant claimed that his plea was invalid because a defendant cannot stipulate to habitual criminal status, the State did not prove that appellant had been represented by counsel during his previous convictions and his plea was coerced by friends of the victim.

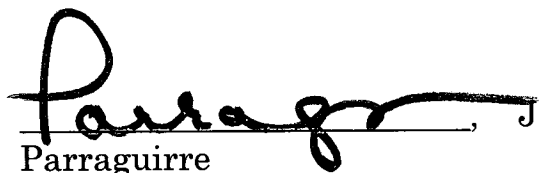
This court has held that a motion to withdraw a guilty plea is subject to the equitable doctrine of laches. Hart v. State, 116 Nev. 558, 563, 1 P.3d 969, 972 (2000). Application of the doctrine requires consideration of various factors, including: “(1) whether there was an inexcusable delay in seeking 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.” Id. at 563-64, 1 P.3d at 972. 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. Id. at 564, 1 P.3d at 972.

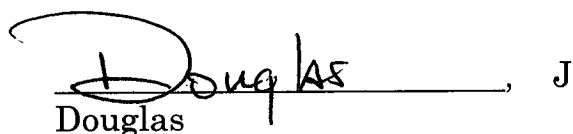
Based upon our review of the record on appeal, we conclude that appellant’s motion is subject to the equitable doctrine of laches. Appellant filed his motion nearly three years after the judgment of conviction. Appellant failed to provide any explanation for the delay. Appellant failed to indicate why 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.

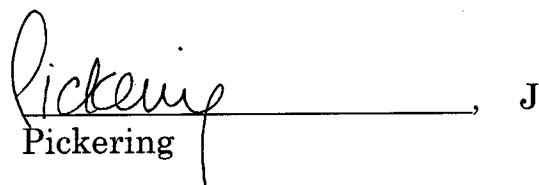
Having reviewed the record on appeal and for the reasons set forth above, we conclude that appellant is not entitled to relief and that

briefing and oral argument are unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

 J.  
Parraguirre

 J.  
Douglas

 J.  
Pickering

cc: Hon. Elizabeth Goff Gonzalez, District Judge  
Pierce Jerrol Jones  
Attorney General Catherine Cortez Masto/Carson City  
Clark County District Attorney David J. Roger  
Eighth District Court Clerk