

IN THE SUPREME COURT OF THE STATE OF NEVADA

GREGORY L. EVERETT,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 52907

FILED

AUG 18 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
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; David B. Barker, Judge.

On May 20, 1981, the district court convicted appellant, pursuant to a guilty plea, of first-degree murder. The district court sentenced appellant to serve a term of life in the Nevada State Prison without the possibility of parole. This court dismissed appellant's appeal from his judgment of conviction and sentence. Everett v. State, Docket No. 13434 (Order Dismissing Appeal, September 23, 1982). The remittitur issued on October 12, 1982. Appellant unsuccessfully sought post-conviction relief in an untimely post-conviction petition for a writ of habeas corpus. Everett v. State, Docket No. 51052 (Order of Affirmance, August 19, 2008).

On November 4, 2008, appellant filed a proper person motion to withdraw a guilty plea in the district court. The State opposed the motion. On January 28, 2009, the district court denied appellant's motion. This appeal followed.

It appears that appellant claimed that his plea was not valid. It further appears that appellant challenged the prior proceedings and argued that failure to consider his claims would result in a fundamental miscarriage of justice.

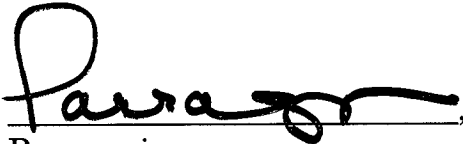
This court has held that a motion to withdraw a guilty plea is subject to the equitable doctrine of laches. Hart v. State, 116 Nev. 558, 563, 1 P.3d 969, 972 (2000). Application of the doctrine requires consideration of various factors, including: “(1) whether there was an inexcusable delay in seeking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

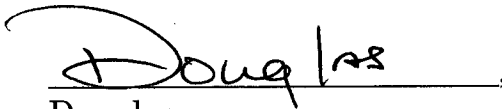
Based upon our review of the record on appeal, we conclude that appellant’s motion is subject to the equitable doctrine of laches. Appellant filed his motion more than sixteen years after his direct appeal was resolved. Appellant failed to provide any explanation for the delay. Appellant failed to indicate 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.

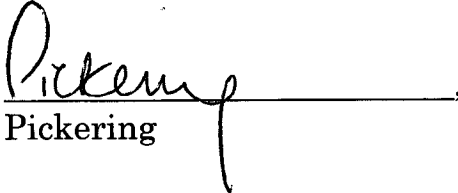
Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that

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.¹


Parraguirre, J.


Douglas, J.


Pickering, J.

cc: Hon. David B. Barker, District Judge
Gregory L. Everett
Attorney General Catherine Cortez Masto/Carson City
Clark County District Attorney David J. Roger
Eighth District Court Clerk

¹We 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.