

IN THE SUPREME COURT OF THE STATE OF NEVADA

DEWAYNE HOLMES,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 54258

**FILED**

**FEB 04 2010**

ORDER OF AFFIRMANCE

TRACIE 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.<sup>1</sup> Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

In his motion filed on June 2, 2009, appellant claimed that his plea was not entered voluntarily or knowingly. The equitable doctrine of laches precluded consideration of the motion because there was an approximately three and one-half year delay from entry of the judgment of conviction on November 17, 2005, an implied waiver exists from appellant's knowing acquiescence in existing conditions, and the State would suffer prejudice if the matter had to be brought to trial after the

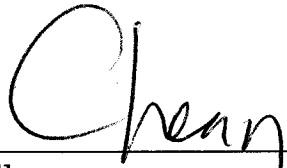
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<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

delay. Hart v. State, 116 Nev. 558, 563, 1 P.3d 969, 972 (2000).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. James M. Bixler, District Judge  
DeWayne Holmes  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk