

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTON PAUL ORTH,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54663

FILED

DEC 10 2010

ORDER OF AFFIRMANCE

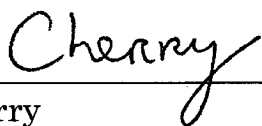
TRADE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
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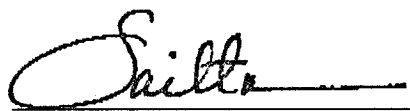
This is an appeal from an order of the district court denying a motion to withdraw guilty plea. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Appellant filed a motion to withdraw guilty plea on March 13, 2009, more than two years after the entry of the judgment of conviction on December 6, 2006. In his motion, appellant claimed his trial counsel failed to fully explain the law regarding his right to challenge the search that resulted in the seizure of narcotics. The district court incorrectly denied the motion on the merits because the equitable doctrine of laches should have applied due to a more than two-year inexcusable delay from entry of the judgment of conviction and an implied waiver from appellant's knowing acquiescence in existing conditions. Hart v. State, 116 Nev. 558, 563-64, 1 P.3d 969, 972 (2000). Nevertheless, we affirm the decision to deny the motion because the district court reached the correct result. See generally Kraemer v. Kraemer, 79 Nev. 287, 291, 382 P.2d 394, 396 (1963) (noting that a correct result will not be reversed simply because it is based on the wrong reason).

Moreover, as a separate and independent ground for denying relief, we conclude the district court did not err in denying relief because appellant fails to demonstrate his plea was invalid. Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986); State v. Freese, 116 Nev. 1097, 1105, 13 P.3d 442, 448 (2000). At the evidentiary hearing, appellant's trial counsel testified that she discussed the charges and the law regarding the search with appellant. In addition, a challenge to the search had no merit because the evidence was lawfully obtained due to appellant's consent, Herman v. State, 122 Nev. 199, 204, 128 P.3d 469, 472 (2006), and therefore, counsel was not ineffective. See Kirksey v. State, 112 Nev. 980, 990, 923 P.2d 1102, 1109 (1996). Further, appellant fails to demonstrate he was prejudiced by counsel's performance because he received a substantial benefit from his plea, as the State agreed not to seek any additional charges which could have stemmed from his arrest and agreed not to argue against probation. Therefore, appellant fails to demonstrate that his claim has merit. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Connie J. Steinheimer, District Judge
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk
Matthew P. Digesti