IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN STEVEN OLAUSEN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56066

FILED

NOV 08 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's July 20, 2009, "motion to withdraw guilty plea/correct clerical error/motion to stay habeas."[1] Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Appellant first claimed that his guilty plea was involuntary because the State withheld a material witness's exculpatory statement, violated the guilty plea agreement, and stated that appellant would be eligible for parole in 15 to 20 years if he was sentenced to life without the possibility of parole. The equitable doctrine of laches precluded consideration of the motion because, while there was an implied waiver only for the latter claim, there has been a 30-year delay from the entry of his guilty plea, see Wilson v. State, 99 Nev. 362, 664 P.2d 328 (1983), and the State would suffer great prejudice if the matter had to be brought to

[1]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).

trial after such a long delay. See Hart v. State, 116 Nev. 558, 563-64, 1 P.3d 969, 972 (2000).

Moreover, as a second and independent ground to deny relief, appellant failed to demonstrate that he would suffer a manifest injustice were he not allowed to withdraw his guilty plea. First, the material witness's grand jury testimony was consistent with her statement such that no evidence of exculpatory value was withheld, and there is no evidence the State could have anticipated changes in her testimony at the penalty hearing. Second, this court's holding on direct appeal that the State did not breach the guilty plea agreement[2] is the law of the case, and appellant failed to demonstrate that continued adherence to that holding would result in manifest injustice. Clem v. State, 119 Nev. 615, 620, 81 P.3d 521, 525 (2003); accord Hall v. State, 91 Nev. 314, 316, 535 P.2d 797, 799 (1975). Finally, the prosecutor's statement about the likelihood of parole was made two months after appellant pleaded guilty, and therefore, appellant could not have relied on that statement in deciding to plead guilty. We therefore conclude that the district court did not err in denying appellant's motion.

Appellant next appeared to claim that a correction was necessary regarding the 1989 findings, determinations and imposition of sentence ("FDIS") because it was not entitled "judgment of conviction." It is now the law of the case that the 1989 FDIS meets all of the requirements for a judgment of conviction, and accordingly, appellant has been and continues to be legally incarcerated on the force of that

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[2]Wilson, 99 Nev. at 370-71, 664 P.2d 333.

document.[3] Hall, 91 Nev. at 316, 535 P.2d at 799. We therefore conclude that the district court did not err in denying appellant's motion.

Appellant also requested stays to various proceedings pending decisions of the district court and of this court in the instant appeal. To the extent that this order does not render appellant's requests moot, they are denied.

For the foregoing reasons, we

ORDER the judgment of the district court AFFIRMED.[4]

_____, J.
Hardesty

_____, J.
Douglas

_____, J.
Pickering

cc: Hon. Connie J. Steinheimer, District Judge
Washoe District Court Clerk
John Steven Olausen
Attorney General/Carson City
Washoe County District Attorney

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[3]Olausen v. State, Docket No. 48841 (Order of Affirmance, September 7, 2007); Olausen v. State, Docket No. 49989 (Order Dismissing Appeal, September 7, 2007).

[4]We 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.