

IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW J. ASPATORE,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 58142

**FILED**

JAN 12 2012

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY *Tracie K. Lindeman*  
DEPUTY CLERK

ORDER OF AFFIRMANCE

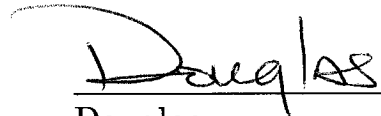
This is an appeal from a district court order denying appellant Matthew J. Aspatore's post-conviction motion to withdraw his guilty plea. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

Aspatore contends that the district court erred by denying his post-conviction motion to withdraw his guilty plea without an evidentiary hearing. Aspatore claims that his plea was not knowing or voluntary because counsel failed to (1) properly advise him about the charges he was facing, and (2) move to suppress evidence of the drugs found in his vehicle because the warrantless search followed un-Mirandized admissions he made during a custodial interrogation.

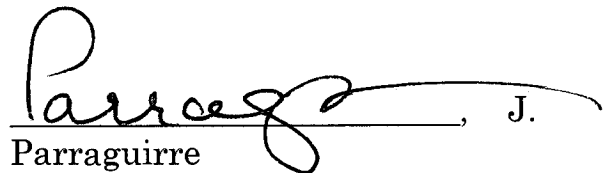
The district court may grant a motion to withdraw a plea after entry of the judgment of conviction in order to "correct manifest injustice." NRS 176.165. "[C]onsideration of the equitable doctrine of laches is necessary in determining whether a defendant has shown 'manifest injustice.'" Hart v. State, 116 Nev. 558, 563, 1 P.3d 969, 972 (2000). Here, the district court heard arguments from counsel, found that Aspatore's motion was untimely, and stated that "refusal to allow Defendant to withdraw [his] guilty plea will not result in manifest injustice." We

conclude that the district court did not abuse its discretion by denying Aspatore's motion to withdraw his guilty plea. See id. at 563-65, 1 P.3d at 972-73; see generally Bryant v. State, 102 Nev. 268, 272, 721 P.2d 364, 368 (1986), holding limited on other grounds by Smith v. State, 110 Nev. 1009, 879 P.2d 60 (1994). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Douglas

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

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Michael Villani, District Judge  
Law Offices of Cynthia Dustin, LLC  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk