

IN THE SUPREME COURT OF THE STATE OF NEVADA

MIGUEL CARRILLO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58234

FILED

JAN 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *A. Ingersoll*
DEPUTY CLERK

ORDER OF AFFIRMANCE

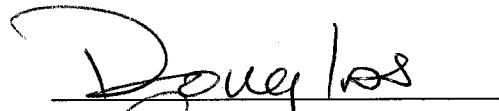
This is an appeal from a district court order denying appellant Miguel Carrillo's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Michael Villani, Judge.


Carrillo contends that the district court erred by denying his habeas petition because counsel was ineffective for failing to advise him about the immigration consequences of his guilty plea and pursue a viable defense. We disagree.

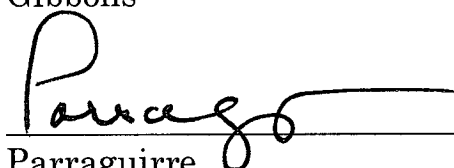
When reviewing the district court's resolution of an ineffective-assistance claim, we give deference to the court's factual findings if they are supported by substantial evidence and not clearly wrong but review the court's application of the law to those facts de novo. Lader v. Warden, 121 Nev. 682, 686, 120 P.3d 1164, 1166 (2005). Here, the district court concluded that trial counsel was not deficient and that Carrillo failed to demonstrate prejudice. See Strickland v. Washington, 466 U.S. 668, 687-88, 694 (1984); Kirksey v. State, 112 Nev. 980, 987, 923 P.2d 1102, 1107 (1996). Additionally, the State pleaded laches because Carrillo filed his petition nearly nine years after the entry of his judgment of conviction, and the district court determined that Carrillo "failed to overcome the presumption of prejudice to the State" and that "no good

cause has been shown to allow for the delay in filing the instant petition.”
See NRS 34.800(1)(b), (2); NRS 34.726(1). We conclude that the district
court’s findings are supported by substantial evidence and are not clearly
wrong, and Carrillo has not demonstrated that the district court erred as a
matter of law. Accordingly, we

ORDER the judgment of the district court AFFIRMED.¹


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Michael Villani, District Judge
Xavier Gonzales
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹We also reject Carrillo’s request to have this court, in the first
instance, treat his habeas petition alternatively as a motion to withdraw
his guilty plea and find that he suffered a manifest injustice pursuant to
NRS 176.165 and Hart v. State, 116 Nev. 558, 1 P.3d 969 (2000).