

IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANK WAGBO,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 58559

FILED

MAR 07 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK

ORDER OF AFFIRMANCE

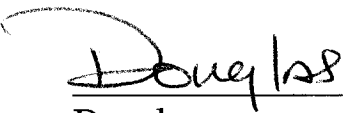
This is an appeal from a district court order denying appellant Frank Wagbo's post-conviction motion to withdraw his guilty plea. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

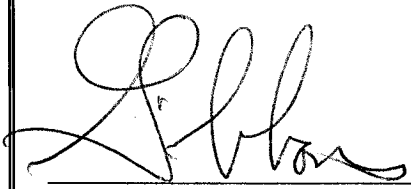
Wagbo contends that the district court abused its discretion by denying his motion and asserts that his plea is invalid because defense counsel failed to inform him that he would be deported if he pleaded guilty to attempted burglary. The State responds that the district court reached the right result but should have applied the equitable doctrine of laches and declined to consider the motion on its merits. We agree with the State.

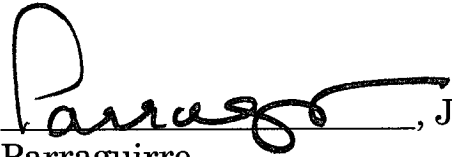
A district court may grant a post-conviction motion to withdraw a guilty plea in order to correct a manifest injustice. NRS 176.165. "[C]onsideration of the equitable doctrine of laches is necessary in determining whether a defendant has shown 'manifest injustice.'" Hart v. State, 116 Nev. 558, 563, 1 P.3d 969, 972 (2000). Here, the State asserted laches in its opposition to Wagbo's motion and argued that Wagbo waited more than twelve years to file his motion to withdraw, Wagbo was

aware that he was facing deportation proceedings as early as 2001, and the State's ability to resume prosecution of the original charges¹ would be prejudiced because two of the witnesses had left the jurisdiction and the physical evidence against Wagbo had been destroyed. Wagbo did not respond to the State's laches argument. The district court conducted an evidentiary hearing, found that Wagbo was not deprived of effective assistance of counsel, and declined to consider the State's laches argument. We conclude that laches precluded consideration of Wagbo's motion on its merits, see id. at 563-65, 1 P.3d at 972-73, and that the district court reached the right result when it denied the motion, see Picetti v. State, 124 Nev. 782, 790, 192 P.3d 704, 709 (2008) (this court may affirm a decision that reaches the right result for the wrong reason). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

¹Wagbo was originally charged with one count of burglary, three counts of forgery of a credit card, three counts of obtaining or possessing a credit card without the cardholder's consent, and one count of forgery.

cc: Hon. Michelle Leavitt, District Judge
Robert L. Langford & Associates
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk