

IN THE SUPREME COURT OF THE STATE OF NEVADA

AMABLE AMADO ALCIVAR,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 58852

**FILED**

JUL 23 2013

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY R. Malone  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

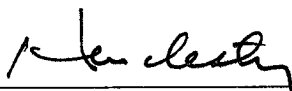
This is an appeal from a district court order denying appellant Amable Amado Alcivar's post-conviction motion to withdraw his guilty plea. Eighth Judicial District Court, Clark County; Jerome T. Tao, Judge.

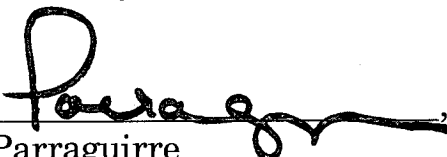
Because the district court reached the merits of Alcivar's motion before determining whether Alcivar's motion was subject to the equitable doctrine of laches, we issued an order of limited remand directing the district court to hold a hearing and determine whether laches precluded the consideration of Alcivar's motion. The district court conducted a hearing and determined that Alcivar's motion was precluded by the equitable doctrine of laches. Alcivar contends that the district court erred by applying the equitable doctrine of laches and that his plea was not validly entered because counsel failed to advise him about the potential immigration consequences of his guilty plea. *See Padilla v. Kentucky*, 559 U.S. \_\_\_, 130 S. Ct. 1473 (2010).

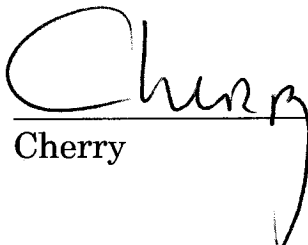
Since our order of limited remand was issued, the Supreme Court has held that its opinion in *Padilla* "does not have retroactive effect." *Chaidez v. United States*, 568 U.S. \_\_\_, \_\_\_, 133 S. Ct. 1103, 1105 (2013). Therefore, even if the district court erred by denying Alcivar's

claim based on the equitable doctrine of laches, the district court did not abuse its discretion by denying Alcivar's motion because the motion relies on the retroactive application of *Padilla* to his 1999 guilty plea. See *Wilson v. State*, 99 Nev. 362, 373, 664 P.2d 328, 334 (1983) (reviewing denial of motion to set aside a guilty plea for an abuse of discretion); *Wyatt v. State*, 86 Nev. 294, 298, 468 P.2d 338, 341 (1970) (holding that a correct result will not be reversed simply because it is based on the wrong reason). Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Hardesty

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

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. Jerome T. Tao, District Judge  
Langford McLetchie LLC  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk