

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,
Appellant,
vs.
JOSE FRANCISCO CORTEZ-
RODRIGUEZ,
Respondent.

No. 59720

FILED

NOV 15 2012

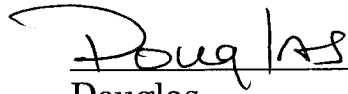
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK


ORDER OF REVERSAL AND REMAND


This is an appeal from an order of the district court granting respondent Jose Francisco Cortez-Rodriguez's post-conviction petition for a writ of habeas corpus. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge.

The State contends that the district court erred by granting the petition. We agree. Cortez-Rodriguez did not have standing to petition for a writ of habeas corpus because he completed his sentence of imprisonment. See NRS 34.724(1); Jackson v. State, 115 Nev. 21, 23, 973 P.2d 241, 242 (1999). Moreover, even assuming that it could construe Cortez-Rodriguez's habeas petition as a motion to withdraw his guilty plea, see Hart v. State, 116 Nev. 558, 562, 564, 1 P.3d 969, 971, 972-73 (2000) (a motion to withdraw guilty plea is incidental to the proceedings in the trial court and not covered by the habeas corpus provisions), the district court failed to apply the equitable doctrine of laches, see id. at 563-64, 1 P.3d at 972, and the record on appeal demonstrates that the doctrine of laches precluded a finding of manifest injustice. Accordingly, we

ORDER the judgment of the district court REVERSED AND
REMAND this matter to the district court for proceedings consistent with
this order.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Chief Judge, Eighth Judicial District Court
Attorney General/Carson City
Clark County District Attorney
Xavier Gonzales
Eighth District Court Clerk