

IN THE SUPREME COURT OF THE STATE OF NEVADA

SARKIS MANUKYAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 60049

FILED

MAY 15 2013

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

ORDER OF AFFIRMANCE

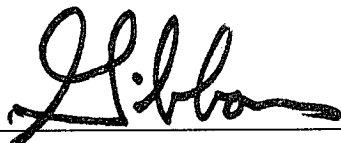
This is an appeal from a district court order denying appellant's post-conviction motion to withdraw his guilty plea. Eighth Judicial District Court, Clark County; James M. Bixler, Judge.

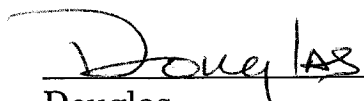
Appellant argues that the district court erred by concluding that *Padilla v. Kentucky*, 559 U.S. ___, 130 S. Ct. 1473 (2010), does not apply retroactively and by denying his post-conviction motion to withdraw his guilty plea. His motion contends that counsel was ineffective for not advising him of any immigration consequences stemming from his guilty plea pursuant to *Padilla*. The State argues that the district court should have declined to consider the motion on its merits as the equitable doctrine of laches precluded consideration.

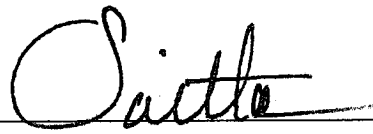
A court may, after sentencing, set aside a judgment of conviction and permit the defendant to withdraw his plea to "correct manifest injustice." NRS 176.165; *see also Hill v. Lockhart*, 474 U.S. 52, 59-60 (1985); *Strickland v. Washington*, 466 U.S. 668, 687 (1984); *Rubio v. State*, 124 Nev. 1032, 1039-40, 194 P.3d 1224, 1228-29 (2008). Even assuming that laches does not preclude consideration of appellant's motion on the merits, *see Hart v. State*, 116 Nev. 558, 563-65, 1 P.3d 969, 972-73 (2000) ("[C]onsideration of the equitable doctrine of laches is necessary in

determining whether a defendant has shown ‘manifest injustice’ that would permit withdrawal of a plea after sentencing.”), we conclude that he is not entitled to relief because “*Padilla* does not have retroactive effect.” *Chaidez v. United States*, 568 U.S. ___, ___, 133 S. Ct. 1103, 1105 (2013).¹ Therefore, we conclude that the district court did not err by denying appellant’s motion, and we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. James M. Bixler, District Judge
Chesnoff & Schonfeld
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹We are not convinced by appellant’s argument that we should, despite the holding of *Chaidez*, apply *Padilla* retroactively to correct any alleged manifest injustice.