

IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW A. DAVIS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 61128

**FILED**

APR 10 2013

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a post-conviction motion to withdraw a guilty plea.<sup>1</sup> Eighth Judicial District Court, Clark County; Carolyn Ellsworth, Judge.

In his motion filed on May 22, 2012, appellant claimed that his conviction and sentence should be vacated because the district court failed to order a psychiatric evaluation of appellant before appellant entered the guilty plea. We conclude that the equitable doctrine of laches precluded consideration of the motion because there was a six-year inexcusable delay from entry of the judgment of conviction, an implied waiver exists from

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<sup>1</sup>This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

Appellant also seeks to appeal from the district court's denial of his motion to proceed in forma pauperis and his motion for appointment of counsel and request for evidentiary hearing. We conclude that the district court did not abuse its discretion in denying these motions. NRS 176.165; see also NRS 34.750(1); NRS 34.770.

appellant's knowing acquiescence in existing conditions,<sup>2</sup> and the State may suffer prejudice from the delay. Hart v. State, 116 Nev. 558, 563-64, 1 P.3d 969, 972 (2000). Furthermore, as a separate and independent basis for affirming the district court's order, we conclude that appellant failed to provide any facts or evidence demonstrating that he was incompetent when he entered his guilty plea. Hargrove v. State, 100 Nev. 498, 503, 686 P.2d 222, 225 (1984). Accordingly, we

ORDER the judgment of the district court AFFIRMED.<sup>3</sup>

J. Hardesty, J.  
Hardesty

J. Parraguirre, J.  
Parraguirre

J. Cherry, J.  
Cherry

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<sup>2</sup>Appellant previously filed post-conviction petitions for a writ of habeas corpus in 2007 and 2008. Davis v. State, Docket No. 49451 (Order of Affirmance, October 3, 2007); Docket No. 51723 (Order of Affirmance, August 18, 2009). He failed to demonstrate why the claim raised in his current motion could not have been raised in his previous petitions.

<sup>3</sup>We have reviewed all documents that appellant has submitted in proper person to the clerk of this court in this matter, and we conclude that no relief based upon those submissions is warranted. To the extent that appellant has attempted to present claims or facts in those submissions which were not previously presented in the proceedings below, we have declined to consider them in the first instance.

cc: Hon. Carolyn Ellsworth, District Judge  
Matthew A. Davis  
Attorney General/Carson City  
Clark County District Attorney  
Eighth District Court Clerk