

IN THE SUPREME COURT OF THE STATE OF NEVADA

JUAN FERNANDO LOPEZ A/K/A JUAN
FERNANDO LOPEZ, JR.,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61668

FILED

MAY 14 2013

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

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion to withdraw guilty plea or to modify sentence.¹ Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

In his motion, filed on July 11, 2012, appellant claimed that his trial counsel was ineffective for informing appellant that he would receive a shorter sentence than what the district court actually imposed. To the extent that appellant sought to withdraw his plea, we conclude that the equitable doctrine of laches precluded consideration of the motion because there was a more-than-three-year delay from entry of the judgment of conviction, there was inexcusable delay in seeking relief, an implied waiver exists from appellant's knowing acquiescence in existing conditions, and the State may suffer prejudice from the delay. *See Hart v.*

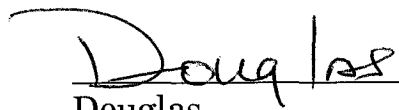
¹This appeal has been submitted for decision without oral argument, NRAP 34(f)(3), and we conclude that the record is sufficient for our review and briefing is unwarranted. *See Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).


State, 116 Nev. 558, 563-64, 1 P.3d 969, 972 (2000). Therefore, the district court did not err in denying this portion of the motion.

To the extent that appellant sought to modify his sentence, appellant's claim of ineffective assistance of counsel was outside the scope of claims permissible in a motion to modify sentence. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Therefore, the district court did not err in denying this portion of the motion.

Having concluded that appellant is not entitled to relief, we
ORDER the judgment of the district court AFFIRMED.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Saitta

cc: Hon. Michelle Leavitt, District Judge
Juan Fernando Lopez
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk