

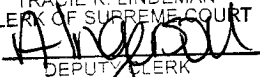
IN THE SUPREME COURT OF THE STATE OF NEVADA

FULGENCIO A. LEON,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 61816

FILED

JUN 13 2013

TRACIE K. LINDEMAN
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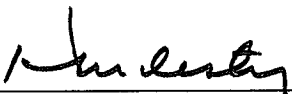
ORDER OF AFFIRMANCE

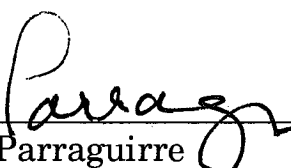
This is an appeal from a district court order denying appellant Fulgencio Leon's post-conviction motion to withdraw his guilty plea. Eighth Judicial District Court, Clark County; Valorie J. Vega, Judge.

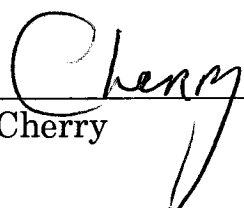
Leon contends that the district court abused its discretion by denying his post-conviction motion to withdraw his guilty plea because counsel's misadvice regarding the immigration consequences of his plea resulted in a manifest injustice. *See* NRS 176.165. Specifically, Leon contends that the district court erred by concluding that laches barred his motion, by concluding that *Padilla v. Kentucky*, 599 U.S. 356 (2010), did not apply retroactively, and by failing to consider this court's holding in *Rubio v. State*, 124 Nev. 1032, 1043, 194 P.3d 1224, 1232 (2008). Leon fails to support his claim that laches does not apply with any cogent argument or citation to authority and therefore we decline to consider it. *Maresca v. State*, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987). Even assuming, without deciding, that laches does not preclude consideration of Leon's motion on the merits, he is not entitled to relief because *Padilla* does not apply to cases that were final before it was decided, *Chaidez v. United States*, 568 U.S. ___, ___, 133 S. Ct. 1103, 1113 (2013), and Leon's case was

also final before *Rubio* was decided and he does not suggest that *Rubio* applies retroactively. We conclude that the district court did not abuse its discretion by denying Leon's motion, *see Rubio*, 124 Nev. at 1039, 194 P.3d at 1228-29, and we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Cherry

cc: Hon. Valorie J. Vega, District Judge
Don P. Chairez
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk