

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEON ANTHONY SUMPTER A/K/A  
CLIFTON ANTHONY WILLIAMS,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent

No. 41983

FILED

MAY 12 2004

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying appellant's motion to withdraw a guilty plea.

On February 3, 1997, the district court convicted appellant, pursuant to an Alford plea,<sup>1</sup> of one count of second degree murder. The district court sentenced appellant to serve a term of life in the Nevada State Prison with the possibility of parole. This court dismissed appellant's untimely direct appeal for lack of jurisdiction.<sup>2</sup>

On July 18, 2003, appellant filed a proper person motion to withdraw a guilty plea in the district court. The State opposed the motion. On August 5, 2003, the district court denied appellant's motion. This appeal followed.

In his motion, appellant claimed that his guilty plea was the product of coercion. Appellant claimed that his trial counsel told him that he was going to be found guilty and that he would receive a sentence of life

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<sup>1</sup>North Carolina v. Alford, 400 U.S. 25 (1970).

<sup>2</sup>Sumpter v. State, Docket No. 32038 (Order Dismissing Appeal, April 10, 1998).

without the possibility of parole. Appellant appeared to further claim that he was actually innocent.

This court has held that a motion to withdraw a guilty plea is subject to the equitable doctrine of laches.<sup>3</sup> Application of the doctrine requires consideration of various factors, including: "(1) whether there was an inexcusable delay in seeking relief; (2) whether an implied waiver has arisen from the defendant's knowing acquiescence in existing conditions; and (3) whether circumstances exist that prejudice the State."<sup>4</sup> Failure to identify all grounds for relief in a prior proceeding seeking relief from a judgment of conviction should weigh against consideration of a successive motion.<sup>5</sup>

Based upon our review of the record on appeal, we conclude that appellant's motion is subject to the equitable doctrine of laches. Appellant filed his motion more than six years after the judgment of conviction was entered. Appellant failed to provide a sufficient explanation for the delay.<sup>6</sup> Appellant failed to indicate why he was not able to present his claims prior to the filing of the instant motion. Finally, it appears that the State would suffer prejudice if it were forced to proceed to trial after such an extensive delay. Accordingly, we conclude that the doctrine of laches precludes consideration of appellant's motion on the merits.

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<sup>3</sup>See Hart v. State, 116 Nev. 558, 1 P.3d 969 (2000).


<sup>4</sup>Id. at 563-64, 1 P.3d at 972.

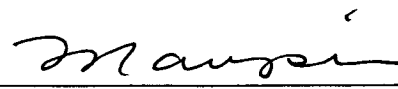
<sup>5</sup>Id. at 564, 1 P.3d at 972.

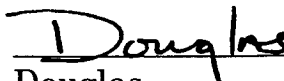
<sup>6</sup>Appellant claimed that his motion was delayed because he only recently received his case file.

Having reviewed the record on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted.<sup>7</sup> Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Maupin

  
\_\_\_\_\_, J.  
Douglas

cc: Hon. Jackie Glass, District Judge  
Leon Anthony Sumpter  
Attorney General Brian Sandoval/Carson City  
Clark County District Attorney David J. Roger  
Clark County Clerk

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<sup>7</sup>See Lockett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).