

IN THE SUPREME COURT OF THE STATE OF NEVADA

BARTLEY DAMIAN LEE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56028

FILED

SEP 09 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a motion to dismiss the guilty plea.¹ Second Judicial District Court, Washoe County; Robert H. Perry, Judge.

In his motion filed on December 4, 2009, appellant challenged the validity of his guilty plea.² We conclude that the equitable doctrine of laches precluded consideration of the motion because there was a four-year delay from entry of the judgment of conviction and a two-year delay from the resolution of his direct appeal, there was inexcusable delay in seeking relief, and an implied waiver exists from appellant's knowing acquiescence in existing conditions as he previously pursued a post-conviction petition for a writ of habeas corpus with the assistance of

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).

²Based on the nature of the relief sought, we conclude that the district court properly construed the motion to be a motion to withdraw the guilty plea. NRS 176.165.

counsel.³ Hart v. State, 116 Nev. 558, 563-64, 1 P.3d 969, 972 (2000).
Therefore, the district court did not err in denying appellant's motion. We

ORDER the judgment of the district court AFFIRMED.⁴

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Pickering, J.
Pickering

³The district court denied the motion on the merits, while also noting that the claims were barred by the doctrine of the law of the case. We conclude that the district court erred in reaching the merits of the claims as the doctrine of equitable laches should have been applied for the reasons set forth above. Nevertheless, we conclude that the district court reached the correct result in denying the petition. Kraemer v. Kraemer, 79 Nev. 287, 291, 382 P.2d 394, 396 (1963) (holding that a correct result will not be reversed simply because it is based on the wrong reason).

⁴We 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. Robert H. Perry, District Judge
Bartley Damian Lee
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk