

IN THE SUPREME COURT OF THE STATE OF NEVADA

KEVIN COREY SCHNEIDER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 56342

FILED

DEC 10 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY D. Doug
DEPUTY CLERK

ORDER OF AFFIRMANCE

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

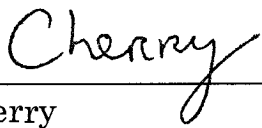
In his motion filed on May 26, 2010, appellant claimed that he should be allowed to withdraw his plea because he was not informed that pursuant to NRS 176.035(2), his sentence in this case would have to be served consecutively to his previous prison sentence because he was on parole when he committed the instant offenses. Based on our review of the record, we conclude that appellant's motion is subject to the equitable doctrine of laches.

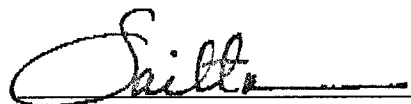
Appellant filed his motion nearly four years after the judgment of conviction was entered on July 6, 2006. Hart v. State, 116 Nev. 558, 563, 1 P.3d 969, 972 (2000). Appellant attempted to explain his


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 Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

delay in filing by claiming that trial counsel stated he would pursue a motion for sentence modification. After reviewing the documentation provided by appellant, it appears that appellant knew within six months of his judgment of conviction being filed that trial counsel was not pursuing the motion. Appellant failed to demonstrate why he could not have filed this motion at that time or within a reasonable amount of time after making this discovery. Thus, there was an 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. Id. Therefore, the district court did not err in denying appellant's motion. Accordingly, we

ORDER the judgment of the district court AFFIRMED.²


Cherry, J.


Saitta, J.


Gibbons, J.

²We 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. Doug Smith, District Judge
Kevin Corey Schneider
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk