

IN THE SUPREME COURT OF THE STATE OF NEVADA

GERARDO GUZMAN GONZALEZ A/K/A
GERARDO GONZALEZ GUZMAN,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57001

FILED

JUN 08 2011

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

ORDER OF AFFIRMANCE

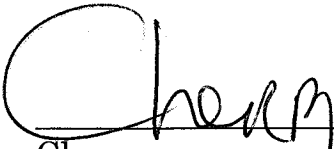
This is an appeal from a district court order denying appellant Gerardo Guzman Gonzalez's post-conviction motion to withdraw his guilty plea. Fourth Judicial District Court, Elko County; J. Michael Memeo, Judge.

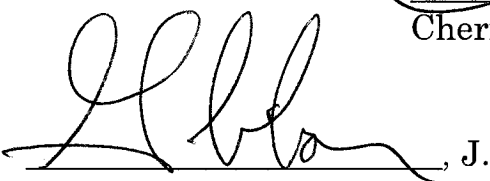
Gonzalez contends that the district court erred by denying his post-conviction motion to withdraw his guilty plea. Specifically, Gonzalez claims that counsel failed to advise him about potential immigration consequences and therefore his plea was not validly entered. See Padilla v. Kentucky, 559 U.S. ___, 130 S. Ct. 1473 (2010). The district court may grant a motion to withdraw a plea after entry of the judgment of conviction in order to "correct manifest injustice." NRS 176.165. "[C]onsideration of the equitable doctrine of laches is necessary in determining whether a defendant has shown 'manifest injustice.'" Hart v. State, 116 Nev. 558, 563, 1 P.3d 969, 972 (2000).


Here, the State argued that the equitable doctrine of laches should apply because Gonzalez filed his motion nearly six years after entry of the judgment of conviction and it would suffer prejudice if it were forced to proceed to trial after such a delay because the evidence and case

file were released or destroyed. The district court's order listed Gonzalez's delay in seeking legal advice regarding his immigration status as a ground for denying the motion. We conclude that laches precluded consideration of the motion on the merits, see id. at 563-65, 1 P.3d at 972-73, and we

ORDER the judgment of the district court AFFIRMED.


Cherry, J.


Gibbons, J.


Pickering, J.

cc: Hon. J. Michael Memeo, District Judge
Law Offices of Reza Athari
Attorney General/Carson City
Elko County District Attorney
Elko County Clerk