

IN THE SUPREME COURT OF THE STATE OF NEVADA

MARK EDWARD BOEKHOFF,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62901

FILED

DEC 12 2013

TRAMIE K. LINDEMAN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from an order of the district court denying a “motion to vacate illegal judgment based on a jurisdictional defect; or in the alternative, motion to withdraw guilty plea to correct manifest injustice.”¹ Second Judicial District Court, Washoe County; Steven P. Elliott, Senior Judge.

In his motion filed on February 8, 2012, appellant claimed that the district court lacked jurisdiction over an amended information, he was not informed of the true consequences of his guilty plea, his counsel coerced him into pleading guilty, his two convictions were barred by the Double Jeopardy Clause, he did not receive a benefit from his guilty plea,

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).

his counsel had a conflict of interest, the district court improperly imposed a fee for payment of the public defender's office's services, and cumulative errors amount to manifest injustice.

First, given the nature of the relief sought, we conclude that appellant's motion was properly construed as a motion to correct an illegal sentence. However, appellant's claims fell outside the narrow scope of claims permissible in a motion to correct an illegal sentence. *See Edwards v. State*, 112 Nev. 704, 708, 918 P.2d 321, 324 (1996). Appellant's claims did not implicate the jurisdiction of the district court. *See Nev. Const. art. 6, § 6; NRS 171.010*. Therefore, without considering the merits of any of the claims raised in the motion, we conclude that the district court did not err in denying the motion.

Second, to the extent that the motion could be construed as a motion to withdraw the guilty plea, we conclude that the equitable doctrine of laches precluded consideration of the motion because there was a more-than-13-year delay from entry of the judgment of conviction and a more-than-10-year delay from entry of the amended judgment of conviction, delay in seeking relief was inexcusable, an implied waiver exists from appellant's knowing acquiescence in existing conditions, and the State may suffer prejudice from the delay. *See Hart v. State*, 116 Nev. 558, 563-64, 1 P.3d 969, 972 (2000). Appellant's assertion that laches should not apply because he has continuously challenged his conviction and attempted to raise similar claims in an earlier motion failed to excuse

the delay. *See id.* at 564, 1 P.3d at 972 (“[W]here a defendant previously has sought relief from the judgment, the defendant’s failure to identify all grounds for relief in the first instance should weigh against consideration of the successive motion.”). Accordingly, we

ORDER the judgment of the district court AFFIRMED.²

Pickering, C.J.
Pickering

Hardesty, J.
Hardesty

Cherry, J.
Cherry

cc: Hon. Elliott Sattler, District Judge
Hon. Steven P. Elliott, Senior Judge
Mark Edward Boekhoff
Attorney General/Carson City
Washoe County District Attorney
Washoe District Court Clerk

²We conclude that the district court did not err in denying appellant’s renewed motion for confession of error.