

IN THE COURT OF APPEALS OF IOWA

No. 21-1689
Filed June 29, 2022

THUAN DINH TRAN,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Scott County, Mark R. Lawson,
Judge.

Thuan Tran appeals the dismissal of his application for postconviction relief.

AFFIRMED.

Elizabeth K. Elsten, Spirit Lake, for appellant.

Thomas J. Miller, Attorney General, and Genevieve Reinkoester, Assistant
Attorney General, for appellee State.

Considered by May, P.J., and Greer and Chicchelly, JJ.

MAY, Presiding Judge.

Thuan Tran was convicted of second-degree sexual abuse. He appealed his conviction, but this court affirmed. See *generally State v. Tran*, No. 17-0533, 2018 WL 739320 (Iowa Ct. App. Feb. 7, 2018). *Procedendo* issued on March 13, 2018. Then Tran filed an application for postconviction relief (PCR) on July 23, 2021. The State moved to dismiss Tran's application because it wasn't filed within the three-year period allowed by Iowa Code section 822.3 (2021). The PCR court granted the motion and dismissed Tran's application. Tran appeals.

On appeal, Tran asks us to adopt equitable tolling as a means around section 822.3.¹ But "this court has frequently held that equitable tolling does not apply to section 822.3." See *Smith v. State*, No. 19-0384, 2020 WL 110398, at *1 & n.2 (Iowa Ct. App. Jan. 9, 2020) (collecting cases). And we see no reason to choose a different path today.

Because Tran's application was untimely, the PCR court was right to dismiss it. We affirm without further opinion. See Iowa Ct. R. 21.26(1)(d), (e).

AFFIRMED.

¹ Our review is for legal error. *Nguyen v. State*, 829 N.W.2d 183, 186 (Iowa 2013).