

IN THE COURT OF APPEALS OF IOWA

No. 1-329 / 10-1256
Filed June 15, 2011

GAYLORD NORDINE, M.D.,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Robert J. Blink,
Judge.

A postconviction relief applicant claims that the district court erred in
dismissing his application. **AFFIRMED.**

Peter C. Riley of Tom Riley Law Firm, P.L.C., Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Bridget A. Chambers, Assistant
Attorney General, John P. Sarcone, County Attorney, and Steve Foritano,
Assistant County Attorney, for appellee State.

Considered by Vogel, P.J., Vaitheswaran, J., and Mahan, S.J.* Tabor, J.,
takes no part.

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

VAITHESWARAN, J.

Dr. Gaylord Nordine pleaded guilty to sexual exploitation by a counselor or therapist. He received a deferred judgment and was placed on formal probation. He subsequently filed an application for postconviction relief, contending there were material facts not previously presented that required vacation of the conviction. The State moved to dismiss the application on the ground that Nordine “successfully completed probation and no judgment or conviction was entered.” The district court granted the motion. The court reasoned that “[w]hen a judgment is deferred, the adjudication of guilt and sentence are also deferred” and the court cannot grant the requested relief.

On appeal, Nordine frames the issue as follows: “[W]hether a defendant who receives a deferred judgment on a guilty plea, and successfully completes probation, can seek postconviction relief based upon substantial evidence of innocence.” We have previously concluded that the Uniform Postconviction Procedure Act is not available under these circumstances.¹ We find no reason to chart a different course here. See Iowa Code §§ 822.2 (2009) (stating that postconviction relief act is only applicable to anyone “who has been convicted of, or sentenced for, a public offense”), 907.1(1) (defining deferred judgment as “a sentencing option whereby both the adjudication of guilt and the imposition of a sentence are deferred by the court”); *State v. Farmer*, 234 N.W.2d 89, 92 (Iowa 1975) (“[W]hen judgment is deferred . . . the adjudication of guilt is deferred as well as the sentence.”).

¹ *Youker v. State*, No. 10-0869 (Iowa Ct. App. Feb. 23, 2011); *Galloway v. State*, No. 08-0652 (Iowa Ct. App. Oct. 15, 2008).

We affirm the dismissal of Nordine's application for postconviction relief.

AFFIRMED.