

IN THE COURT OF APPEALS OF IOWA

No. 15-0681
Filed April 6, 2016

RICHARD WEATHERLY,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Rebecca Goodgame
Ebinger, Judge.

Richard Weatherly appeals the summary dismissal of his postconviction
relief application. **AFFIRMED.**

Angela L. Campbell of Dickey & Campbell Law Firm, P.L.C., Des Moines,
for appellant.

Thomas J. Miller, Attorney General, and Kyle Hanson, Assistant Attorney
General, for appellee State.

Considered by Vaitheswaran, P.J., and Doyle and Mullins, JJ.

VAITHESWARAN, Presiding Judge.

Richard Weatherly appeals the summary dismissal of his postconviction relief application as time-barred. He concedes the application fell outside the three-year limitations period set forth in Iowa Code section 822.3 (2013) but argues the district court should have considered the doctrine of equitable tolling.

The district court correctly explained that “Iowa does not recognize equitable tolling as an exception to the statute of limitations in post-conviction relief actions.” See *James v. State*, 858 N.W.2d 32, 33 (Iowa Ct. App. 2014). Accordingly, the district court did not err in declining to apply the doctrine.

Weatherly also contends the district court abused its discretion in denying a motion to continue the postconviction-relief hearing to allow Weatherly’s telephonic participation in the hearing. See *State v. Artzer*, 609 N.W.2d 526, 529 (Iowa 2000) (setting forth the standard of review). Because the State’s motion to dismiss and Weatherly’s response raised purely legal issues—whether the postconviction relief application was time-barred and whether the application was subject to an equitable tolling exception to the time bar—Weatherly’s participation in the hearing was not necessary. Accordingly, the district court did not abuse its discretion in denying the motion to continue.

We affirm the district court’s dismissal of the postconviction relief application.

AFFIRMED.