

IN THE COURT OF APPEALS OF IOWA

No. 2-548 / 11-1700
Filed July 25, 2012

FERNANDO GUERRERO,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Michael D. Huppert,
Judge.

Fernando Guerrero appeals the summary dismissal of his second
application for postconviction relief. **AFFIRMED.**

Robert A. Wright Jr. of Wright Law Office, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Thomas W. Andrews, Assistant
Attorney General, John P. Sarcone, County Attorney, and Daniel C. Voogt,
Assistant County Attorney, for appellee State.

Considered by Eisenhauer, C.J., and Potterfield and Mullins, JJ. Tabor,
J., takes no part.

EISENHAUER, C.J.

In 2000, Fernando Guerrero pleaded guilty to felony drug charges. His counsel at the time did not advise him of the possible adverse consequences to his immigration status flowing from his plea. Guerrero's 2008 postconviction relief application, alleging ineffective assistance of plea counsel, was summarily dismissed in 2010.

In March 2011, Guerrero filed another application for postconviction relief based on *Padilla v. Kentucky*, 130 S. Ct. 1473, 1486 (2010) (ruling a criminal defendant has a Sixth Amendment right to receive advice from counsel regarding the risk of deportation before pleading guilty). In September 2011, the district court dismissed the case. Our decision is controlled by *Perez v. State*, ___ N.W.2d ___, 2012 WL 2052399, at *1 (Iowa 2012) (ruling defendant's postconviction claim based on *Padilla* cannot go forward because either it may not be raised retroactively or it is barred by the statute of limitations).

AFFIRMED.