

IN THE COURT OF APPEALS OF IOWA

No. 2-824 / 11-1166
Filed October 17, 2012

BLANCA ESTELLA PRADO,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

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

Applicant appeals the district court decision denying her application for
postconviction relief from a deferred judgment for delivery of a controlled
substance. **AFFIRMED.**

Michael H. Said of Law Offices of Michael H. Said, P.C., Des Moines, for
appellant.

Thomas J. Miller, Attorney General, Julia Kim, Assistant Attorney General,
John Sarcone, County Attorney, and Daniel Voogt, Assistant County Attorney, for
appellee.

Considered by Vogel, P.J., Mullins, J., and Sackett, S.J.* Tabor, J., takes
no part.

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

SACKETT, S.J.

In 1992, Blaca Prado, a citizen of Mexico, entered a guilty plea in Iowa to delivery of a controlled substance, in violation of Iowa Code section 204.401(1)(c)(2)(b) (1991), an aggravated misdemeanor. She was given a deferred judgment and placed on probation. She was discharged from probation in 1993 without the entry of judgment, and the deferred judgment was expunged.

On April 19, 2011, Prado filed an application for postconviction relief, alleging she received ineffective assistance because her attorney did not notify her of the immigration implications of her guilty plea, citing *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010). The State filed a motion for summary disposition, asserting Prado was not entitled to postconviction relief under section 822.2 (2011) because there had not been a conviction or entry of judgment against her.

The district court granted the State's motion for summary disposition. The court determined Prado had not been convicted of a crime in the underlying proceedings, and thus was not entitled to postconviction relief. Prado appeals the decision of the district court. In general, postconviction relief proceedings are reviewed for the correction of errors at law. *Osborn v. State*, 573 N.W.2d 917, 920 (Iowa 1998). Constitutional claims, however, are reviewed de novo. *Id.*

Section 822.2(1) provides that the postconviction procedures of that chapter apply to “[a]ny person who has been convicted of, or sentenced for, a public offense.” In considering whether a deferred judgment pursuant to a guilty plea is a conviction under Iowa's postconviction relief statute, the Iowa Supreme Court has stated:

We conclude that a “deferred judgment” is used in its strict legal sense in our postconviction relief statute, and as a result, a guilty plea pursuant to a deferred judgment is not a conviction under Iowa’s postconviction relief statute. A postconviction statute by its very nature is the legal framework for structuring challenges in the courts to the outcomes of our criminal justice system. In the context of a statute that is designed to structure legal relationships in the court system, we believe that the legislature most likely used the term in its “strict legal sense” and not in its broader popular context.

Daughenbaugh v. State, 805 N.W.2d 591, 598-99 (Iowa 2011). The court concluded the term “conviction” in section 822.2 required adjudication and the entry of judgment. *Id.* at 599.

Prado was never “convicted” of a public offense as that term is used in section 822.2(1), and therefore, the postconviction procedures of chapter 822 are not available to her. *See id.* We affirm the decision of the district court granting the State’s motion for summary disposition.

AFFIRMED.