

SUPREME COURT OF IOWA

Wise v. State

708 N.W.2d 66 (Iowa 2006) · No. No. 02-1866 · Decided January 6, 2006

SUMMARY

The Iowa Supreme Court affirmed the denial of Debora Sue Wise’s application for postconviction relief. The court held that the district court did not commit prejudicial error by failing to make further inquiry into Wise’s waiver of counsel or by failing to appoint postconviction counsel on its own motion, particularly because her claims were largely waived or contradicted by the plea record.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Lavorato, Chief Justice
JURISDICTION	Iowa
DECIDED	January 6, 2006
DOCKET	No. 02-1866
DISPOSITION	affirmed
PROCEDURAL POSTURE	Wise sought Iowa postconviction relief after pleading guilty to two counts of delivery of a schedule I controlled substance. The district court denied relief, the court of appeals affirmed, and the Supreme Court of Iowa granted further review.
STANDARD OF REVIEW	The district court's decision whether to appoint counsel in a postconviction proceeding is reviewed for abuse of discretion; failure to exercise that discretion is reversible only if prejudicial. The court reviewed the postconviction claims and the alleged waiver and appointment errors for prejudicial error.
PRECEDENTIAL VALUE	Published Iowa Supreme Court opinion; precedential
PARTIES	Debora Sue Wise v. State of Iowa

TOPICS

- post-conviction relief
- right to counsel
- ineffective assistance
- plea bargaining
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court sufficiently inquired into Wise's waiver of her right to counsel in the postconviction proceeding.
2. Whether the district court erred by failing to appoint postconviction counsel on its own motion after Wise appeared unable to represent herself.
3. Whether Wise's guilty plea waived the defenses and objections asserted in her postconviction application, except claims involving irregularities intrinsic to the plea.

HOLDINGS

1. Appointment of counsel in an Iowa postconviction proceeding is governed by statute rather than by the state or federal constitution, and the decision whether to appoint counsel rests in the district court's sound discretion. Counsel should be appointed when, after reading the application in the light most favorable to the applicant, a substantial issue of law or fact appears.
2. With limited exceptions, a guilty plea under Iowa Rule of Criminal Procedure 2.8(2)(b) waives all defenses and objections, including ineffective-assistance claims that are not intrinsic to the plea itself. Claims intrinsic to the plea are those bearing on whether the plea was knowing and voluntary.
3. A postconviction applicant is not entitled to a hearing or appointed counsel based solely on allegations that directly contradict the record, unless a minimum threshold question of credibility appears.

KEY QUOTATIONS

“trial judges should inceptionally read the often inartfully drawn application in a light most favorable to the applicant. In event it thus appears a substantial issue of law or fact may exist, then counsel should be at once appointed.” (at 70)

“We find no need for trial court to afford petitioner a hearing on allegations which directly contradict the record, unless some minimum threshold question of credibility appears.” (at 71)

FACTUAL BACKGROUND

Wise entered an open guilty plea to two counts of delivery of a schedule I controlled substance after the State agreed to dismiss two drug-tax-stamp charges. During the plea colloquy, she stated that no threats or promises induced her plea, that no one had predicted her sentence, and that she was satisfied with her privately retained counsel. She later claimed in postconviction proceedings that counsel had promised she would receive a deferred sentence, but the plea record, correspondence, plea agreement, sentencing proceedings, and counsel's testimony contradicted that claim. The district court found that no such promise had been made.

PROCEDURAL HISTORY

Wise pleaded guilty under an agreement providing for dismissal of drug-tax-stamp violations. After sentencing, her direct appeal was dismissed as frivolous. She then filed a pro se application for postconviction relief and

amendments, asserting, among other things, ineffective assistance and issues concerning appointment of counsel. The district court denied relief after a hearing; the court of appeals affirmed; the Supreme Court of Iowa affirmed both decisions.

DISPOSITION

affirmed

CASES CITED

- Fuhrmann v. State, 433 N.W.2d 720, 722-23 (Iowa 1988)
- Furgison v. State, 217 N.W.2d 613, 615-16 (Iowa 1974)
- Speed v. State, 616 N.W.2d 158, 159 (Iowa 2000) (per curiam)
- Manning v. State, 654 N.W.2d 555, 561 (Iowa 2002)
- State v. Boge, 252 N.W.2d 411, 413-14 (Iowa 1977)
- Hedman v. United States, 527 F.2d 20, 21-22 (10th Cir. 1975) (per curiam)

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