

SUPREME COURT OF NEBRASKA

State v. Sandoval

288 Neb. 754 (2014) · No. No. S-11-872 · Decided August 8, 2014

SUMMARY

The Nebraska Supreme Court held that a writ of error coram nobis cannot be used to set aside a plea-based conviction based on the court's failure to advise the defendant of immigration consequences. The court explained that coram nobis addresses qualifying errors of fact, not errors of law, and that the statutory advisement omission does not prevent acceptance of a plea or entry of judgment. The judgment denying Jose Luis Sandoval's petition was affirmed.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Stephan, J.; Wright, J.; Connolly, J.; McCormack, J.; Miller-Lerman, J.; Cassel, J.
JURISDICTION	Nebraska
DECIDED	August 8, 2014
DOCKET	No. S-11-872
DISPOSITION	affirmed
PROCEDURAL POSTURE	Sandoval appealed the Dakota County District Court's denial of his petition for a writ of error coram nobis seeking to vacate his plea-based conviction and withdraw his guilty plea because the court failed to advise him of the immigration consequences of the plea.
STANDARD OF REVIEW	Questions of law are reviewed independently, without deference to the decision of the court below.
PRECEDENTIAL VALUE	published opinion; precedential Nebraska Supreme Court decision
PARTIES	Jose Luis Sandoval v. State of Nebraska

TOPICS

- post-conviction relief
- criminal procedure
- immigration
- appellate procedure
- due process

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- immigration law
- appellate procedure
- constitutional law

QUESTIONS PRESENTED

1. Whether a writ of error coram nobis may be used to set aside a plea-based conviction because the court failed to advise the defendant of the immigration consequences of the plea.
2. Whether the failure to provide the statutory immigration-consequences advisement prevents acceptance of the plea or entry of judgment.
3. Whether the alleged failure to provide the advisement constitutes an error of fact or a due process violation cognizable through coram nobis.

HOLDINGS

1. A writ of error coram nobis cannot be used to set aside a plea-based conviction on the ground that the court failed to advise the defendant of the immigration consequences of the plea.
2. Failure to give the advisement required by Neb. Rev. Stat. § 29-1819.02(1) does not prevent acceptance of a plea or entry of a judgment of conviction; instead, it may provide a basis for a later motion to vacate the judgment and withdraw the plea upon the statutory showing.
3. The asserted due process violation does not support issuance of a writ of error coram nobis because the claim concerns an alleged error of law rather than a qualifying error of fact.

KEY QUOTATIONS

“The purpose of the writ of error coram nobis is to bring before the court rendering judgment matters of fact which, if known at the time the judgment was rendered, would have prevented its rendition.” (757)

“The failure of a district court to give the advisement required by § 29-1819.02(1) does not prevent acceptance of a plea and entry of a judgment of conviction.” (758)

“a writ of error coram nobis cannot be utilized to set aside a plea-based conviction on the ground that the court failed to properly advise the defendant of the immigration consequences of the plea.” (759)

FACTUAL BACKGROUND

Sandoval was charged with possession of methamphetamine and changed his plea from not guilty to guilty in January 2004 as part of a plea agreement. The district court did not advise him of the immigration consequences of his guilty plea, although Nebraska law required that advisement. After completing his sentence, Sandoval sought coram nobis relief to vacate the conviction and withdraw his plea, asserting statutory, due process, and ineffective-assistance grounds.

PROCEDURAL HISTORY

Sandoval was charged with possession of methamphetamine, pleaded guilty in January 2004, and completed his sentence. He later filed a petition for a writ of error coram nobis, alleging that the court and defense counsel failed to advise him of the immigration consequences of his plea. The district court denied relief, and the Nebraska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Landera, 285 Neb. 243, 826 N.W.2d 570 (2013)
- State v. Torres, 283 Neb. 142, 812 N.W.2d 213 (2012), cert. denied, 133 S. Ct. 244 (2012)
- State v. Rodriguez-Torres, 275 Neb. 363, 746 N.W.2d 686 (2008)
- State v. Diaz, 283 Neb. 414, 808 N.W.2d 891 (2012)
- State v. Mena-Rivera, 280 Neb. 948, 791 N.W.2d 613 (2010)
- State v. Yos-Chiguil, 278 Neb. 591, 772 N.W.2d 574 (2009)
- State v. Wilson, 194 Neb. 587, 234 N.W.2d 208 (1975)
- Padilla v. Kentucky, 559 U.S. 356, 130 S. Ct. 1473, 176 L. Ed. 2d 284 (2010)
- Chaidez v. United States, 568 U.S. 342, 133 S. Ct. 1103, 185 L. Ed. 2d 149 (2013)
- State v. Rodriguez, ante p. 714, ___ N.W.2d ___ (2014)