

IN THE COURT OF APPEALS OF IOWA

No. 8-1007 / 06-1628
Filed February 4, 2009

MARTA COTO-ZANDERS,
Plaintiff-Appellant,

vs.

STATE OF IOWA,
Defendant-Appellee.

Appeal from the Iowa District Court for Black Hawk County, Jon Fister,
Judge.

Postconviction relief claimant appeals the trial court's dismissal.

AFFIRMED.

Dawn Wilson, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Jean C. Pettinger, Assistant Attorney
General, Thomas J. Ferguson, County Attorney, and Kimberly A. Griffith,
Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Eisenhauer and Doyle, JJ.

EISENHAUER, J.

Marta Coto-Zanders appeals the trial court's dismissal of her second postconviction relief application. We uphold the trial court's dismissal because her claims were addressed and resolved in her first postconviction relief proceeding.

In July 1998, after a jury trial, Coto-Zanders was convicted of possession of marijuana with intent deliver and failure to affix a drug tax stamp. She was sentenced to two, concurrent five-year prison terms. Coto-Zanders appealed. In November 1999, the Iowa Supreme Court affirmed her conviction, but remanded her case for resentencing. The court also preserved Coto-Zanders's claim she received ineffective assistance of counsel.

After a lengthy hearing on remand, Coto-Zanders was again sentenced to two concurrent five-year prison terms. She appealed and her sentence was upheld by the Iowa Court of Appeals in February 2003.

In January 2004, Coto-Zanders filed for postconviction relief. She raised three issues relevant to this appeal. First, she argued her counsel was ineffective in failing to notify her of the 2003 Iowa Court of Appeals decision in time to seek further review. Additionally, she claimed her counsel was ineffective in failing to adequately prepare and present evidence in support of her motion to compel the identity of two confidential informants. Finally, she claimed counsel was ineffective by failing to prepare and adequately present evidence in support of her motion to suppress the search warrant. After a hearing, the court discussed each allegation and denied relief in April 2005. This postconviction

ruling was affirmed without opinion by the Iowa Court of Appeals in September 2007.

In March 2006, before the first postconviction appeal was resolved, Coto-Zanders filed a second application for postconviction relief. The State moved to dismiss the application arguing Coto-Zanders was raising the same issues raised in her first postconviction proceeding. After a hearing on the State's motion, the court agreed and dismissed her application in September 2006.

In October 2006, Coto-Zanders appealed and, in October 2007, the Iowa Supreme Court granted Coto-Zanders's application for a stay until the appeal of her first postconviction case was resolved. In her stay application Coto-Zanders stated: "Most, if not all, of the same issues that will be raised in the current proceeding were raised in [the first postconviction action.]"

In this appeal, from the dismissal order of September 2006, Coto-Zanders argues counsel was ineffective in not notifying her of the 2003 Iowa Court of Appeals decision in time to seek further review. Further she claims counsel was ineffective in adequately presenting evidence to support the motion to compel and motion to suppress. Because these issues were addressed and resolved in her first postconviction proceeding, we affirm the trial court's dismissal. See *United Fire & Cas. Co. v. Iowa Dist. Ct.*, 612 N.W.2d 101, 103 (Iowa 2000).

AFFIRMED.