



ILCS 5/5-8-1(d)(1) (West 2004)). On September 14, 2010, plaintiff filed a *mandamus* complaint challenging his three-year term of mandatory supervised release. In the complaint, plaintiff argued that the circuit court's oral pronouncement of the sentence and the sentencing order both fail to mention any term of mandatory supervised release and that it would be a violation of his due process rights to impose additional time for mandatory supervised release upon him at the end of his sentence. He argued that mandatory supervised release must be included within the sentence and not added to the end of the sentence.

¶ 5 In response, defendant filed a motion to dismiss the complaint. He argued that a mandatory-supervised-release term was statutorily required and that the court's failure to expressly admonish plaintiff of that term did not prevent the imposition of the term.

¶ 6 On March 22, 2011, the circuit court granted defendant's motion to dismiss. Plaintiff filed this timely appeal.

¶ 7 STANDARD OF REVIEW

¶ 8 We review *de novo* the dismissal of a *mandamus* complaint under section 2-615 of the Code of Civil Procedure (735 ILCS 5/2-615 (West 2008)). *Turner-El v. West*, 349 Ill. App. 3d 475, 480 (2004). All well-pleaded facts and reasonable inferences therefrom are taken as true, but conclusions, unsupported by facts, will not be accepted as true. *Id.* at 479. Where the dismissal of a *mandamus* complaint is appropriate as a matter of law, we may affirm the dismissal on any basis that is supported by the record. *Rodriguez v. Illinois Prisoner Review Board*, 376 Ill. App. 3d 429, 434 (2007).

¶ 9 ANALYSIS

¶ 10 On appeal, plaintiff argues that the circuit court erred in dismissing his

*mandamus* complaint. He argues that it is unconstitutional to apply a term of mandatory supervised release outside of the judicially imposed sentence. Moreover, he argues that IDOC is effectively extending his sentence in violation of statutory law and that the extension is a violation of his due process rights. He also argues that the term of mandatory supervised release added to the end of his sentence constitutes double jeopardy.

¶ 11 Defendant argues that the complaint was correctly dismissed because plaintiff did not establish any legal right to the requested relief. He contends that plaintiff must serve a term of mandatory supervised release despite the court's failure to admonish him of the term. Defendant further argues that plaintiff's argument that mandatory supervised release must be served within the prisoner's imprisonment is frivolous and that it is well established that a term of mandatory supervised release is served in addition to the prison term. Defendant also contends that mandatory supervised release does not constitute double jeopardy. Therefore, defendant requests that this court affirm the circuit court's dismissal of plaintiff's *mandamus* complaint.

¶ 12 *Mandamus* is an extraordinary remedy by which an inmate can compel a public official to perform a mandatory duty that does not involve the exercise of the official's discretion. *Turner-El*, 349 Ill. App. 3d at 480. An order of *mandamus* will only be granted if a plaintiff can establish all of the following conditions: (1) a clear affirmative right to relief, (2) a clear duty of the public officer to act, and (3) clear authority on behalf of the officer to comply with a *mandamus* order. *Rodriguez*, 376 Ill. App. 3d at 434. The burden lies on plaintiff to demonstrate material facts to prove the conditions. *Id.*

¶ 13 We first examine the plain language of the statute to see if plaintiff had a clear

affirmative right to *mandamus* relief. When a reviewing court examines a statute, the focus is on the legislature's intent. *Kalbfleisch v. Columbia Community Unit School District Unit No. 4*, 396 Ill. App. 3d 1105, 1115 (2009). To determine the legislative intent, we must give the language of the statute its plain and ordinary meaning. *Id.* "We may not depart from the plain language of the statute by reading into it exceptions, limitations, or conditions that conflict with the express legislative intent." *Rosewood Care Center, Inc. v. Caterpillar, Inc.*, 226 Ill. 2d 559, 567 (2007).

¶ 14 In the instant case, plaintiff claims that a term of mandatory supervised release must be served within the prison sentence imposed upon him. At the time of plaintiff's sentencing, section 5-8-1(d) of the Unified Code of Corrections (the Code) stated, "Except where a term of natural life is imposed, every sentence shall include as though written therein a term in addition to the term of imprisonment." 730 ILCS 5/5-8-1(d) (West 2004). More specifically, plaintiff's Class X felony carries a mandatory-supervised-release term of three years. 730 ILCS 5/5-8-1(d)(1) (West 2004). The statute specifically states that the term is to be served "in addition" to the prison term. Plaintiff focuses solely on the word "therein" and seems to ignore the statute's clear language that the term must be served "in addition" to the sentence of imprisonment. We cannot read limitations into a statute that are not a part of the written language of the statute, nor are we allowed to ignore language that is clearly a part of the written statute. Therefore, we cannot conclude that the legislature intended for the mandatory-supervised-release term to be served within the prison sentence. Plaintiff has not established a clear right of relief under section 5-8-1(d) of the Code.

¶ 15 Moreover, "[c]ourts do not have authority to strike the mandatory[-]supervised[-]release term imposed under this statute." *People v. Russell*,

345 Ill. App. 3d 16, 22 (2003). "The mandatory supervised release relates to a term of imprisonment by statutory requirement without regard to whether the period is expressly attached by the sentencing court to the term of imprisonment." *People v. Brown*, 296 Ill. App. 3d 1041, 1043 (1998).

¶ 16 Here, both parties agree that the circuit court did not expressly admonish plaintiff of his mandatory-supervised-release term. However, we do not find that the court's failure to admonish plaintiff of his mandatory supervised release violates his due process rights. While it is correct that the courts have held that the circuit court must admonish defendants of their terms of mandatory supervised release where there is a negotiated guilty plea, this holding has not been extended to convictions by juries. *People v. Whitfield*, 217 Ill. 2d 177, 193 (2005). *Whitfield* was also decided after plaintiff's conviction was finalized, and thus, even if applicable, plaintiff would not be entitled to retroactive relief. *People v. Morris*, 236 Ill. 2d 345, 363-64 (2010).

¶ 17 Moreover, we find plaintiff's argument that mandatory supervised release violates protections against double jeopardy to be meritless and completely unsupported. Therefore, we will not further address it.

¶ 18 Without a clear right to relief, plaintiff cannot establish the conditions necessary for a *mandamus* complaint to succeed. Therefore, we conclude that the circuit court correctly granted defendant's motion to dismiss the complaint.

¶ 19 CONCLUSION

¶ 20 For the foregoing reasons, we affirm the circuit court's order granting defendant's motion to dismiss.

¶ 21 Affirmed.