

On April 6, 2009, Turley filed a grievance asserting that state law entitled him to one hour of out-of-cell exercise daily. The grievance was denied and was appealed. The Illinois Administrative Review Board held that the grievance had no merit. On December 22, 2009, Turley filed a complaint for *mandamus* relief, arguing that the defendants had a duty to comply with the statute. The defendants responded by filing a motion to dismiss that was granted by the circuit court on March 15, 2010. Turley filed this timely appeal.

STANDARD OF REVIEW

The dismissal of a *mandamus* complaint upon a motion filed under section 2-615 of the Code of Civil Procedure (735 ILCS 5/2-615 (West 2008)) is subject to *de novo* review. *Turner-El v. West*, 349 Ill. App. 3d 475, 480 (2004). All well-pleaded facts and reasonable inferences from the complaint 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).

ANALYSIS

Initially, we observe that Turley has appended documents to his brief that were not made a part of the record on appeal. Generally, attachments to appellate briefs that are not otherwise of record are not properly before a reviewing court and cannot be used to supplement the record. *Kensington's Wine Auctioneers & Brokers, Inc. v. John Hart Fine Wine, Ltd.*, 392 Ill. App. 3d 1, 14 (2009). In resolving this appeal, we will not consider these documents or any argument that is based on them. We also note that the defendants' motion to strike portions of Turley's reply brief was taken with the case. That motion is hereby denied.

On appeal, Turley asserts that the defendants are not following the minimum

standards provided in section 3-7-2(c) of the Unified Code of Corrections (Code) (730 ILCS 5/3-7-2(c) (West 2008)). Section 3-7-2(c) provides as follows:

"All institutions and facilities of the Department [of Corrections] shall provide facilities for every committed person to leave his cell for at least one hour each day unless the chief administrative officer determines that it would be harmful or dangerous to the security or safety of the institution or facility." 730 ILCS 5/3-7-2(c) (West 2008).

Turley prays that this court will reverse the circuit court's dismissal of his *mandamus* complaint and order the defendants to adhere to the state law in giving all prisoners an hour of exercise time daily out of their cell.

In response, the defendants argue that the plain language of the statute does not require that the one hour out of the cell be specifically reserved for exercise time but instead that any movement outside of the cell counts toward satisfying the one-hour-per-day out-of-cell requirement. Furthermore, they assert that the case relied on by Turley is a federal case that is not binding or persuasive authority for the state courts. The defendants also argue that a *mandamus* complaint is not proper to challenge discretionary actions and that the statute at issue here gives the chief administrative officer discretionary authority.

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 discretion. *Turner-El v. West*, 349 Ill. App. 3d 475, 480 (2004). An order of *mandamus* will only be granted if a plaintiff can establish all 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 the plaintiff to demonstrate material facts to prove the conditions. *Id.*

We first examine the plain language of the statute to decide whether a clear right to

relief exists. When a reviewing court examines a statute, the focus is on the legislature's intent. *Kalbfleisch v. Columbia Community Unit School District 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).

In the instant case, Turley argues that the statute should be construed to mean that the prison must give prisoners one hour of exercise time outside of their cell daily. However, the pertinent part of the statute does not even contain the words "exercise time." The statute merely requires that the Department of Corrections "provide facilities for every committed person to leave his cell for at least one hour each day." 730 ILCS 5/3-7-2(c) (West 2008). We cannot read limitations into a statute that are not a part of the written language of the statute. Therefore, we cannot conclude that the statute was meant to confer a specific allotted time for exercise. Turley has not established a clear right to relief under section 3-7-2(c) of the Code.

Without a clear right to relief, Turley cannot establish the conditions necessary for a *mandamus* complaint to succeed. Therefore, we conclude that the circuit court correctly dismissed the complaint for a failure to state a cause of action. In light of our decision, we do not address the remaining issues.

CONCLUSION

For the foregoing reasons, we affirm the circuit court's dismissal of Turley's *mandamus* complaint.

Affirmed.