

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2012 IL App (4th) 110595-U

Filed 7/18/12

NO. 4-11-0595

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

JOEL MINGO,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Greene County
GLADYSE C. TAYLOR,)	No. 10MR52
Defendant-Appellant.)	
)	Honorable
)	James W. Day,
)	Judge Presiding.

JUSTICE McCULLOUGH delivered the judgment of the court.
Justices Steigmann and Pope concurred in the judgment.

ORDER

¶ 1 *Held:* Appeal did not fall within the public interest exception to the mootness doctrine.

¶ 2 Defendant, Gladyse C. Taylor, the former acting director of the Department of Corrections (DOC), appeals from an order entered by the circuit court of Greene County awarding plaintiff, Joel Mingo, 90 days of meritorious good-conduct credit pursuant to section 3-6-3(a)(3) of the Unified Code of Corrections (Unified Code) (730 ILCS 5/3-6-3(a)(3) (West 2008)), and further, ordering that plaintiff be released from DOC custody as he had less than 90 days remaining before his projected parole date, or mandatory supervised release (MSR). The court stayed its order pending appeal. Plaintiff was released from prison and began serving his two-year MSR term on August 11, 2011. Defendant concedes the order appealed is moot because plaintiff has been released from prison but contends that this case falls within the public interest exception to the mootness doctrine. We disagree with defendant that the public interest

exception should apply in this case.

¶ 3 On November 19, 2010, while still incarcerated at the Jacksonville Correctional Center Greene County work camp, plaintiff, proceeding *pro se*, filed a *mandamus* petition against defendant. Plaintiff stated he was serving a 16-year-prison sentence for robbery (*People v. Mingo*, No. 03-CF-3353 (Cir. Ct. Winnebago Co.)). He had received 90 days of meritorious good-conduct credit and, as of May 11, 2010, had 18 months of incarceration remaining on his sentence. Plaintiff claimed he was entitled to an additional 90 days of meritorious good-conduct credit pursuant to section 3-6-3(a)(3) of the Unified Code (730 ILCS 5/3-6-3(a)(3) (West 2008)), and sought "a mittimus to reflect the corrected outdate."

¶ 4 On February 8, 2011, defendant filed a motion to dismiss pursuant to section 2-615 of the Code of Civil Procedure (Procedure Code) (735 ILCS 5/2-615 (West 2010)), arguing plaintiff failed to state a cause of action. Specifically, defendant argued that plaintiff (1) did not allege specific facts showing that he was entitled to meritorious good-conduct credit, (2) did not state a claim for an equal protection violation because the defendant's decision to suspend the award of meritorious and supplemental meritorious good-conduct credit applied to all inmates, and (3) did not state an *ex post facto* violation because plaintiff was not losing any credits that previously had been awarded to him and he was not going to be held past the maximum duration of his sentence.

¶ 5 On February 24, 2011, plaintiff filed an amended *mandamus* petition arguing he was entitled to supplemental meritorious good-conduct credits because he (1) aided in sandbagging during floods in 2008 and 2010, (2) met all the eligibility requirements set forth in section 107.210 of title 20 of the Illinois Administrative Code (Administrative Code) (20 Ill. Admin.

Code 107.210 (2011)), which addresses the awarding of meritorious good-time credits, and (3) "earned credits on road crew." Plaintiff attached a newspaper article to his amended petition dated February 20, 2011, discussing DOC's suspension of awarding meritorious good-time and supplemental meritorious good-time while DOC revised procedures "as required by recent legislation." Plaintiff maintained that, as a result of defendant's improper action, he would be subject to a lengthier sentence than permitted by statute.

¶ 6 On May 2, 2011, plaintiff filed a motion inquiring about the status of his case and seeking a default judgment against defendant. In her response, filed on May 16, 2011, defendant stated that she had not been served with the amended complaint.

¶ 7 Following a hearing on June 29, 2011, the circuit court ordered that plaintiff be released from incarceration the following day, June 30, 2011. On June 30, 2011, the circuit court granted defendant's motion to stay the judgment. This appeal followed.

¶ 8 As stated above, plaintiff was released from prison and began serving his two-year MSR term on August 11, 2011. As a result, defendant concedes the fact plaintiff is no longer incarcerated renders her appeal moot. We agree. "An appeal is considered moot where it presents no actual controversy or where the issues involved in the trial court no longer exist because intervening events have rendered it impossible for the reviewing court to grant effectual relief to the complaining party." *In re J.T.*, 221 Ill. 2d 338, 349-50, 851 N.E.2d 1, 7-8 (2006).

¶ 9 Defendant argues, however, that the public interest exception to the mootness doctrine is applicable here. Under this exception, the party seeking review of an issue must make a clear showing that (1) the question is of a substantial public nature; (2) an authoritative determination is needed for future guidance; and (3) the circumstances are likely to recur. *Felzak*

v. Hruby, 226 Ill. 2d 382, 393, 876 N.E.2d 650, 658 (2007). The exception is narrowly construed and requires a clear showing of each criterion. *In re Alfred H.H.*, 233 Ill. 2d 345, 355-56, 910 N.E.2d 74, 80 (2009).

¶ 10 Defendant provides no authority supporting her claim that these criteria exist in this case. Defendant simply argues that (1) the issues of "proper prejudgment procedure" and the award of meritorious good-conduct credit are issues of a public nature, (2) circuit court judges and DOC's Director would benefit from "an authoritative determination," and (3) there is "a reasonable likelihood" the questions at issue will recur. Without citations to relevant authority supporting her claims, defendant has forfeited this argument (see *In re Estate of Thorp*, 282 Ill. App. 3d 612, 616, 669 N.E.2d 359, 362 (1996)) and failed to establish that the " 'issue is of sufficient breadth, or has a significant effect on the public as a whole, so as to satisfy the substantial public nature criterion' " (*Alfred H.H.*, 233 Ill. 2d at 355, 357, 910 N.E.2d at 81 (quoting *Felzak*, 226 Ill. 2d at 393, 876 N.E.2d at 658)). This court does not review cases merely to set precedent or guide future litigation. See *Alfred H.H.*, 233 Ill. 2d at 357, 910 N.E.2d at 81.

¶ 11 Because we do not reach the merits of the amended mandamus petition, we do not speak to the correctness of the judgment rendered by the trial court in this matter. Accordingly, we vacate the trial court's judgment. See *Felzak*, 226 Ill. 2d at 395, 876 N.E.2d at 659; see also *United States v. Munsingwear, Inc.*, 340 U.S. 36, 39-40, 95 L. Ed. 36, 41, 71 S. Ct. 104, 106-07 (1950) (when an appeal is rendered moot through happenstance, the judgment of the court below is vacated).

¶ 12 For the foregoing reasons, we vacate the judgment of the Greene County circuit court and remand with instructions to dismiss plaintiff's amended *mandamus* petition.

¶ 13 Circuit court judgment vacated; cause remanded with directions.