

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) 110802-UB

Order filed November 26, 2012

NO. 4-11-0802

Modified upon denial of rehearing January 9, 2013

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

ROBERT JONES,)	Appeal from
Plaintiff-Appellant,)	Circuit Court of
v.)	Sangamon County
DAVID REDNOUR, Warden, Menard Correctional)	No. 10MR284
Center,)	
Defendant-Appellee.)	Honorable
)	Peter C. Cavanagh,
)	Judge Presiding.

PRESIDING JUSTICE TURNER delivered the judgment of the court.
Justices Steigmann and Knecht concurred in the judgment.

ORDER

¶ 1 *Held:* Where the trial court had subject-matter jurisdiction over plaintiff's criminal trial, plaintiff failed to establish his right to *habeas corpus* relief.

¶ 2 In May 2010, plaintiff, Robert Jones, an inmate in the Illinois Department of Corrections, filed a petition for writ of *habeas corpus* relief claiming he was being unlawfully detained. In January 2011, defendant, David Rednour, warden at Menard Correctional Center, filed a motion to dismiss, which the trial court granted in July 2011. Plaintiff appealed, but this court found the case lacked a valid notice of appeal. Thus, we dismissed the appeal for lack of jurisdiction. Pursuant to a supervisory order, the supreme court directed us to vacate our judgment and assume jurisdiction over the appeal.

¶ 3 On appeal, plaintiff argues the trial court erred in dismissing his petition for *habeas corpus*. We affirm.

¶ 4

I. BACKGROUND

¶ 5 In September 1992, hikers found the partially decomposed body of Dr. Henry Dickerman at the bottom of a cliff in Missouri. The State charged plaintiff with murdering Dickerman in Sangamon County, Illinois. At trial, the State presented evidence that plaintiff murdered Dickerman at the victim's house in Sangamon County and then cleaned the murder scene and removed the body to Missouri.

¶ 6 In 1998, a jury found plaintiff guilty of first degree murder in the killing of Dickerman. The trial court sentenced him to 85 years in prison. Plaintiff appealed, and this court affirmed his conviction. *People v. Jones*, 315 Ill. App. 3d 500, 501, 734 N.E.2d 207, 209 (2000). On appeal to the supreme court, the court remanded the case to the trial court for a hearing on a motion for substitution of judge for cause and retained jurisdiction over the case. *People v. Jones*, 197 Ill. 2d 346, 357, 757 N.E.2d 464, 470-71 (2001). After the trial court denied the motion, the matter returned to the supreme court. In its opinion, the court held, *inter alia*, that sufficient evidence had been presented to find the murder was committed in Sangamon County. *People v. Jones*, 219 Ill. 2d 1, 33-35, 845 N.E.2d 598, 615-16 (2006). The court affirmed plaintiff's conviction. *Jones*, 219 Ill. 2d at 36, 845 N.E.2d at 617.

¶ 7 In May 2010, plaintiff filed a *pro se* petition for writ of *habeas corpus*, arguing (1) his detention was illegal where evidence had been discovered that subject-matter jurisdiction was established under false pretenses; (2) the judgment was void because the trial court lacked subject-matter jurisdiction; and (3) his detention was illegal because of omissions in the record. Plaintiff sought an order of *habeas corpus* directing the warden to release him from custody.

¶ 8 In January 2011, defendant filed a motion to dismiss plaintiff's petition pursuant

to sections 2-615 and 2-619 of the Code of Civil Procedure (Procedure Code) (735 ILCS 5/2-615, 2-619 (West 2010)). Defendant moved to dismiss the petition for failure to state a claim on which *habeas* relief could be granted because the claims were not cognizable under the scope of the *habeas corpus* statute and subject-matter jurisdiction was conferred by the criminal complaint. Defendant also argued the petition should be dismissed because the claims were barred by *res judicata*.

¶ 9 On July 21, 2011, the trial court granted plaintiff's motion to dismiss. On August 24, 2011, plaintiff mailed a late notice of appeal, which the circuit clerk filed on September 1, 2011. On appeal, this court found plaintiff did not file a motion for late notice of appeal in the appellate court, and thus his case lacked a valid notice of appeal. As a result, we found we had no jurisdiction and dismissed the appeal. *Jones v. Rednour*, 2012 IL App (4th) 110802-U (May 14, 2012). The supreme court issued a supervisory order directing us to vacate our order and assume jurisdiction over the appeal. *Jones v. Rednour*, 974 N.E.2d 798 (2012) (No. 114470) (nonprecedential supervisory order on denial of petition for leave to appeal). We now do so.

¶ 10 II. ANALYSIS

¶ 11 On appeal, plaintiff argues his conviction must be reversed because subject-matter jurisdiction was obtained under false pretenses and the State's intentional omission of documents and evidence. We disagree.

¶ 12 A motion to dismiss under section 2-615 of the Procedure Code challenges only the legal sufficiency of the complaint. *Pickel v. Springfield Stallions, Inc.*, 398 Ill. App. 3d 1063, 1066, 926 N.E.2d 877, 881 (2010). In ruling on a section 2-615 motion to dismiss, "the question is 'whether the allegations of the complaint, when construed in the light most favorable to the

plaintiff, are sufficient to establish a cause of action upon which relief may be granted.' " *Green v. Rogers*, 234 Ill. 2d 478, 491, 917 N.E.2d 450, 458-59 (2009) (quoting *Vitro v. Mihelcic*, 209 Ill. 2d 76, 81, 806 N.E.2d 632, 634 (2004)). We review an order granting a section 2-615 motion to dismiss *de novo*. *Beacham v. Walker*, 231 Ill. 2d 51, 57, 896 N.E.2d 327, 331 (2008).

¶ 13 Section 2-619 allows for the involuntary dismissal of a cause of action based on certain defects and defenses, including on the ground "the claim asserted against defendant is barred by other affirmative matter avoiding the legal effect of or defeating the claim." 735 ILCS 5/2-619(a)(9) (West 2010). The dismissal of a complaint pursuant to section 2-619(a)(9) is also reviewed *de novo*. *Lacey v. Village of Palatine*, 232 Ill. 2d 349, 359, 904 N.E.2d 18, 24 (2009).

¶ 14 Section 10-124 of the Procedure Code (735 ILCS 5/10-124 (West 2010)) sets forth the grounds upon which *habeas* relief is available.

"It is well established that an order of *habeas corpus* is available only to obtain the release of a prisoner who has been incarcerated under a judgment of a court that lacked jurisdiction of the subject matter or the person of the petitioner, or where there has been some occurrence subsequent to the prisoner's conviction that entitles him to release." *Beacham*, 231 Ill. 2d at 58, 896 N.E.2d at 332.

A petition for writ of *habeas corpus* for nonjurisdictional defects is inappropriate even though the petition alleges errors involving a denial of constitutional rights. *Barney v. Prisoner Review Board*, 184 Ill. 2d 428, 430, 704 N.E.2d 350, 351 (1998); see also *Baker v. Department of Corrections*, 106 Ill. 2d 100, 106, 477 N.E.2d 686, 689 (1985) (noting a *habeas* petition is not a substitute for a direct appeal and "may not be utilized to correct mere judicial error"). "Conse-

quently, where the original judgment of conviction is not void, a prisoner's maximum term has not yet expired, and nothing has occurred to warrant a prisoner's immediate discharge, the trial court is without jurisdiction to grant *habeas corpus* relief." *Faircloth v. Sternes*, 367 Ill. App. 3d 123, 125, 853 N.E.2d 878, 881 (2006). The only remedy available under *habeas corpus* is a prisoner's immediate release from custody. *Adcock v. Snyder*, 345 Ill. App. 3d 1095, 1098, 804 N.E.2d 141, 143 (2004).

¶ 15 Plaintiff contends the trial court did not have subject-matter jurisdiction over the offense because the State (1) failed to establish beyond a reasonable doubt the murder took place in Sangamon County; (2) proved the murder took place in Sangamon County using "improper methods;" and (3) withheld evidence that indicated the murder did not take place in Sangamon County.

¶ 16 "[S]ubject matter jurisdiction' refers to the power of a court to hear and determine cases of the general class to which the proceeding in question belongs." *Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325, 334, 770 N.E.2d 177, 184 (2002). The Illinois Constitution confers original jurisdiction on the circuit courts over "all justiciable matters except when the Supreme Court has original and exclusive jurisdiction relating to redistricting of the General Assembly and to the ability of the Governor to serve or resume office." Ill. Const. 1970, art. VI § 9.

"Generally speaking, a 'justiciable matter' is 'a controversy appropriate for review by the court, in that it is definite and concrete, as opposed to hypothetical or moot, touching upon the legal relations of parties having adverse legal interests.' [Citation.] To

invoke a circuit court's subject matter jurisdiction, a petition or complaint need only 'alleg[e] the existence of a justiciable matter.' [Citation.] Indeed, even a defectively stated claim is sufficient to invoke the court's subject matter jurisdiction, as '[s]ubject matter jurisdiction does not depend upon the legal sufficiency of the pleadings.' [Citation.] In other words, the *only* consideration is whether the alleged claim falls within the general class of cases that the court has the inherent power to hear and determine. If it does, then subject matter jurisdiction is present." (Emphasis in original.) *In re Luis R.*, 239 Ill. 2d 295, 301, 941 N.E.2d 136, 140 (2010).

¶ 17 Plaintiff's claim that the trial court lacked subject-matter jurisdiction in his case is without merit. "Generally, a person is subject to prosecution in this State if an offense is committed either wholly or partly within the State." *People v. Sims*, 244 Ill. App. 3d 966, 1004, 612 N.E.2d 1011, 1039 (1993); see also *Jones*, 219 Ill. 2d at 33, 845 N.E.2d at 616 (noting "[v]enue is proper in any county where any element of the offense occurred"). Illinois trial courts have jurisdiction over homicide cases where "the physical contact which causes death, or the death itself," occurred in Illinois. 720 ILCS 5/1-5(b) (West 2010).

¶ 18 Here, the State alleged in its complaint that the murder took place in Sangamon County. Whether the State could prove this fact determined whether a conviction was proper, but it had no effect on whether the trial court had subject-matter jurisdiction to preside over the case. As the alleged offense fell within the general class of cases the trial court had the inherent

power to hear and determine, subject-matter jurisdiction was present. Since defendant's conviction is not void, he is not entitled to *habeas* relief.

¶ 19 Plaintiff's allegations regarding the sufficiency of the State's evidence have no bearing on our *habeas* analysis because "[a] complaint for order of *habeas corpus* may not be used to review proceedings that do not exhibit one of these defects, [such as a court that lacked jurisdiction,] even though the alleged error involves a denial of constitutional rights." *Beacham*, 231 Ill. 2d at 58, 896 N.E.2d at 332. As stated, the trial court had subject-matter jurisdiction in this case, and any evidentiary irregularities or insufficiencies did not impact that jurisdiction or provide a basis for *habeas* relief. Further, plaintiff has not alleged any occurrence subsequent to his conviction that would entitle him to immediate release from custody. Thus, the court did not err in granting defendant's motion to dismiss.

¶ 20 III. CONCLUSION

¶ 21 For the reasons stated, we affirm the trial court's judgment.

¶ 22 Affirmed.