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2013 IL App (3d) 130016-U

Order filed August 27, 2013

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2013

ALLAN AUSTIN,) Appeal from the Circuit Court
) of the 12th Judicial Circuit,
Plaintiff-Appellant,) Will County, Illinois,
)
v.) Appeal No. 3-13-0016
) Circuit No. 10-MR-649
MARCUS HARDY, WARDEN,)
Stateville Correctional Center,) Honorable
) Marzell L. Richardson, Jr.,
Defendant-Appellee.) Judge, Presiding.

JUSTICE LYTTON delivered the judgment of the court.
Justices Carter and McDade concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court did not err when it dismissed the plaintiff's *habeas corpus* petition.
- ¶ 2 The plaintiff, Allan Austin, was convicted of three counts of aggravated criminal sexual assault (720 ILCS 5/12-14(a)(2) (West 1998)), two counts of criminal sexual abuse (720 ILCS 5/12-15(a)(1) (West 1998)), and one count each of residential burglary (720 ILCS 5/19-3 (West 1998)), vehicular invasion (720 ILCS 5/12-11.1 (West 1998)), and unlawful restraint (720 ILCS 5/10-3 (West 1998)). The trial court imposed an aggregate sentence of 80 years in prison. Austin's

convictions and sentences were affirmed on appeal. *People v. Austin*, No. 4-99-0188 (2000) (unpublished order under Supreme Court Rule 23).

¶ 3 On June 30, 2010, Austin filed a *habeas corpus* petition, asserting that he was entitled to immediate release from custody. The petition, along with a filing made thereafter entitled "Supplemental Facts," alleged that the trial court did not have proper subject matter jurisdiction over the original action since: (1) juvenile proceedings were mandatory in this case; (2) the court obtained jurisdiction through a defective charging instrument; and (3) jurisdiction was obtained by false pretense.

¶ 4 The defendant, Marcus Hardy, filed a motion to dismiss the petition, alleging that the claims were currently being litigated in a separate *habeas corpus* case before the court. The circuit court concluded that the present *habeas* complaint concerned jurisdictional issues while the other case dealt with sentencing issues. Because the two cases presented distinct issues, the court denied Hardy's motion to dismiss.

¶ 5 Thereafter, Hardy filed a second motion to dismiss. He argued that the claims were barred by *res judicata*. Alternatively, Hardy asserted that Austin failed to allege facts that would entitle him to *habeas* relief. The circuit court granted Hardy's motion and dismissed Austin's *habeas corpus* petition. Austin appeals.

¶ 6 ANALYSIS

¶ 7 Austin argues that his *habeas corpus* petition stated a cognizable claim for relief and, therefore, the circuit court erred in dismissing his petition.

¶ 8 The *habeas corpus* statute provides an extremely narrow remedy for State prisoners. *Faircloth v. Sternes*, 367 Ill. App. 3d 123 (2006). Under this statute, a petitioner who is being held

by the State can gain relief under one of seven specific grounds. See 735 ILCS 5/10-124 (West 2010). Those seven grounds fall into two general categories: (1) the trial court lacked jurisdiction; or (2) there has been some occurrence subsequent to the prisoner's conviction that entitles him to release. *People v. Gosier*, 205 Ill. 2d 198 (2001). If the petition does not state a cognizable claim, the trial court cannot grant *habeas corpus* relief. *Faircloth*, 367 Ill. App. 3d 123. We review a trial court's dismissal of a *habeas corpus* petition *de novo*. *Beacham v. Walker*, 231 Ill. 2d 51 (2008).

¶ 9 Here, Austin claimed in his petition and supplemental facts that he was entitled to immediate discharge because the trial court lacked subject matter jurisdiction. Austin claimed the court lacked jurisdiction because: (1) juvenile proceedings were mandatory in this case; (2) the court obtained jurisdiction through a defective charging instrument; and (3) jurisdiction was obtained by false pretenses.

¶ 10 A trial court's subject matter jurisdiction is invoked whenever a petition or complaint alleges the existence of a justiciable matter. *In re Luis R.*, 239 Ill. 2d 295 (2010) A justiciable matter is a controversy appropriate for review by the court. *Village of Ringwood v. Foster*, 2013 IL App (2d) 111221. Thus, even a defectively stated claim is sufficient to invoke the court's subject matter jurisdiction, since subject matter jurisdiction does not depend upon the legal sufficiency of the pleadings. *Luis R.*, 239 Ill. 2d 295. In addition, the failure to comply with juvenile transfer requirements does not divest the court of jurisdiction. *Id.* 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. *Id.*

¶ 11 Here, Austin was charged under the Criminal Code of 1961 (Code) (720 ILCS 5/1-1 *et seq.* (West 1998)), thus creating a controversy appropriate for review by the trial court. Because he was

charged under the Code, the trial court had subject matter jurisdiction over the case. *People v. Woodall*, 333 Ill. App. 3d 1146 (2002) (circuit court has original subject matter jurisdiction over criminal matters). The court had jurisdiction even if Austin is correct in stating that (1) juvenile proceedings were mandatory, (2) there was a defective charging instrument, and (3) jurisdiction was obtained by false pretenses, as none of those claims would defeat the court's general power to hear the case. See *Luis R.*, 239 Ill. 2d 295. Therefore, because we find that the trial court had subject matter jurisdiction over the claims, Austin's *habeas corpus* petition did not state a cognizable claim for relief and was properly dismissed.

¶ 12

CONCLUSION

¶ 13 The judgment of the circuit court of Will County is affirmed.

¶ 14 Affirmed.