

NOTICE
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2014 IL App (5th) 130058-U

NO. 5-13-0058

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

<p>WESLEY ROBINSON,</p> <p style="padding-left: 40px;">Plaintiff-Appellant,</p> <p>v.</p> <p>RICK HARRINGTON,¹</p> <p style="padding-left: 40px;">Defendant-Appellee.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Appeal from the</p> <p>Circuit Court of</p> <p>Randolph County.</p> <p>No. 12-MR-137</p> <p>Honorable</p> <p>Eugene E. Gross,</p> <p>Judge, presiding.</p>
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PRESIDING JUSTICE WELCH delivered the judgment of the court.
Justices Chapman and Spomer concurred in the judgment.

ORDER

¶ 1 *Held*: Where the plaintiff's allegations were inadequate to warrant *habeas corpus* relief, the circuit court's *sua sponte* dismissal of the plaintiff's complaint is affirmed.

¶ 2 The plaintiff, Wesley Robinson, is currently incarcerated at Menard Correctional Center. He appeals the circuit court's *sua sponte* dismissal of his complaint for *habeas corpus* relief, arguing that he has served his sentence, or in the alternative, that his conviction is void. He asks this court to vacate his conviction. For the reasons that follow,

¹Rick Harrington has replaced Michael Atchison as the warden of Menard Correctional Center, where the plaintiff is incarcerated. Pursuant to section 10-107 of the Code of Civil Procedure (735 ILCS 5/10-107 (West 2012)), Harrington should be substituted as the defendant in this action. See *Hennings v. Chandler*, 229 Ill. 2d 18, 23-24 n.2 (2008) (the proper defendant in a *habeas corpus* case is the plaintiff's current custodian).

we affirm.

¶ 3

BACKGROUND

¶ 4 The background of this case has been reviewed numerous times by this court. As such, we will recall only those facts that are necessary to the disposition of the current appeal.

¶ 5 In 1981, the plaintiff was convicted of first-degree murder and attempted armed robbery in Cook County case No. 81-720102. He was sentenced to an extended prison term of 60 years' imprisonment for the first-degree murder conviction and 15 years' imprisonment for the attempted armed robbery conviction, to be served concurrently. On appeal, his convictions were affirmed, but his sentence for murder was reduced to 40 years' imprisonment on the murder conviction. See *People v. Thomas*, 139 Ill. App. 3d 163, 486 N.E.2d 1362 (1985).

¶ 6 On October 27, 1988, while incarcerated at Stateville Correctional Center, the plaintiff murdered Suon Teoeung, a prison employee, and stole cigarettes from the commissary. A Will County jury found the plaintiff guilty of first-degree murder, armed robbery, and theft. The case proceeded to a death penalty hearing. Although the jury determined that the plaintiff was eligible for the death penalty, it could not conclude that no mitigating factors existed. Therefore, the court sentenced the plaintiff to a term of natural life in prison based on the plaintiff's prior murder conviction. See Ill. Rev. Stat. 1987, ch. 38, ¶ 1005-8-1(1)(c).

¶ 7 The appellate court affirmed the plaintiff's conviction but remanded the cause to the trial court for further proceedings on his *pro se* posttrial motion, in which he had raised issues regarding the competence of trial counsel. *People v. Robinson*, 226 Ill. App. 3d 649, 589 N.E.2d 1093 (1992), *aff'd*, 157 Ill. 2d 68, 623 N.E.2d 352 (1993). On remand, the plaintiff refiled his posttrial motion and requested the appointment of counsel. The Third

District affirmed the trial court's denial of the plaintiff's request for counsel and its denial of his posttrial motion. *People v. Robinson*, No. 3-94-0316 (May 16, 1996) (unpublished order pursuant to Supreme Court Rule 23). Later, the appellate court affirmed the dismissal of his postconviction petition. *People v. Robinson*, No. 3-96-1084 (July 10, 1998) (unpublished order pursuant to Supreme Court Rule 23).

¶ 8 On December 3, 2012, the plaintiff filed the *habeas corpus* complaint that is the basis of this appeal. In the complaint, the plaintiff challenged the natural-life sentence he received, arguing that he had served the "lawful" portion of his sentence and had a "mandatory release date" of October 28, 2011. He argued that his sentence was void under section 5-8-2(a) and (b) of the Unified Code of Corrections (730 ILCS 5/5-8-2(a), (b) (West 2010)) and section 5-8-1(b) and (c) of the Unified Code of Corrections (730 ILCS 5/5-8-1(b), (c) (West 2008)). He further argued that the circuit court of Will County was without jurisdiction to impose a sentence of natural life imprisonment. The circuit court *sua sponte* dismissed the plaintiff's complaint. The plaintiff subsequently filed a "Posttrial Motion," which the circuit court characterized as a motion to reconsider. The circuit court dismissed that motion. This timely appeal followed.

¶ 9 ANALYSIS

¶ 10 We review *de novo* the circuit court's *sua sponte* dismissal of a *habeas corpus* complaint. See *Hennings v. Chandler*, 229 Ill. 2d 18, 24 (2008). The *habeas corpus* remedy for a prisoner is the prisoner's immediate release from prison. *Faircloth v. Sternes*, 367 Ill. App. 3d 123, 125 (2006). *Habeas corpus* relief is available only if (1) the circuit court lacked subject matter or personal jurisdiction, or (2) some subsequent event occurs that entitles the inmate to immediate release from custody. *Id.*

¶ 11 A circuit court obtains personal jurisdiction over a criminal defendant when the defendant appears personally before the court. *People v. Speed*, 318 Ill. App. 3d 910, 932

(2001). Here, the circuit court obtained personal jurisdiction over the plaintiff because the plaintiff appeared before the court following his indictment for first-degree murder, armed robbery, and theft.

¶ 12 The Illinois Constitution provides that the circuit courts have subject-matter jurisdiction over all justiciable matters. Ill. Const. 1970, art. VI, § 9; see *People v. Davis*, 344 Ill. App. 3d 400, 405 (2003). Here, the circuit court of Will County had subject-matter jurisdiction because the criminal charges alleged the existence of a justiciable matter under section 9-1(a)(2) and (3) of the Criminal Code of 1961 (Ill. Rev. Stat. 1987, ch. 38, ¶ 9-1(a)(2), (3); see *People v. Baum*, 2012 IL App (4th) 120285, ¶ 13). The plaintiff argues that he should not have been sentenced to natural life in prison on the 1989 conviction because the 1981 offense on which the extended term was based was for first-degree murder based on accountability. In listing the factors that warrant a term of natural life imprisonment, the statute under which the plaintiff's 1989 sentence was extended provided that such a term shall be given if the defendant had been previously convicted of first-degree murder. Ill. Rev. Stat. 1987, ch. 38, ¶ 1005-8-1(1)(c). The statute provides no caveat regarding accountability. The plaintiff was convicted of first-degree murder in 1981. Thus, the court had the subject-matter jurisdiction to sentence the plaintiff to natural life imprisonment.

¶ 13 The plaintiff has not argued that some postconviction event has occurred that would require his immediate release from prison. In fact, the plaintiff alleged that error occurred at the plaintiff's sentencing, and not subsequently.

¶ 14 The plaintiff failed to show that the circuit court of Will County lacked jurisdiction to sentence him, and failed to show that a subsequent event required his immediate release from prison. The circuit court of Randolph County did not err in *sua sponte* dismissing the plaintiff's complaint for *habeas corpus* relief.

¶ 15

CONCLUSION

¶ 16 For the foregoing reasons, the judgment of the circuit court of Randolph County is affirmed.

¶ 17 Affirmed.