

THIRD DIVISION  
September 30, 2015

No. 1-14-2564

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 10 CR 5444
	)	
MACK GOODMAN,	)	Honorable
	)	Joel L. Greenblatt,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE FITZGERALD SMITH delivered the judgment of the court.  
Presiding Justice Mason and Justice Lavin concurred in the judgment.

**O R D E R**

¶ 1 *Held:* We affirm the circuit court's *sua sponte* dismissal of defendant's petition entitled "Writ of Error Coram Nobis," where the trial court had both subject matter and personal jurisdiction over defendant when it sentenced him to an extended-term of 10 years' imprisonment on his aggravated battery of a child conviction.

¶ 2 Defendant Mack Goodman appeals *pro se* from an order of the circuit court *sua sponte* dismissing his *pro se* petition entitled "Writ of Error Coram Nobis & a Demand for Dismissal or State the Proper Jurisdiction." On appeal, defendant essentially contends that because the trial court lacked jurisdiction to decide the instant case, he should be released from prison. We affirm.

¶ 3 Following a 2010 jury trial, defendant was convicted of aggravated battery of a child and received an extended-term sentence of 10 years' imprisonment. Defendant's conviction arose from the battery of his nine-year-old step-daughter, A.H. Defendant's wife, who is A.H.'s mother, was tried in a simultaneous but separate jury trial and is not party to this appeal. We affirmed defendant's conviction on direct appeal. *People v. Goodman*, 2012 IL App (1st) 110390-U.

¶ 4 On October 30, 2013, defendant filed a "writ of error." The circuit court noted that defendant's writ of error failed to allege a cause of action, was stricken off call, and "returned to sender" on January 14, 2014.

¶ 5 On March 17, 2014, defendant filed a *pro se* "Writ of Error Coram Nobis & a Demand for Dismissal or State the Proper Jurisdiction." In the pleading, defendant alleged that he was improperly convicted in a "foreign state," the State's Attorney lacked the authority to charge him, particularly where his name was spelled in "caps" in the indictment indicating he was wrongly charged as a corporation, and the trial court lacked the jurisdiction to preside over the case and convict him. Defendant also maintained that the actions of the State and trial court constituted official misconduct. Relying on his jurisdictional argument, defendant requested that the circuit court reverse his conviction and that his case be dismissed with prejudice. On April 3, 2014, the pleading was "return[ed] to sender" because it "fail[ed] to state a basis upon which relief can be granted."

¶ 6 On April 28, 2014, defendant filed another *pro se* "Writ of Error Coram Nobis & a Demand for Dismissal or State the Proper Jurisdiction," which was nearly identical to the pleading filed on March 17. On July 25, 2014, the circuit entered a written order denying defendant's motion. The order stated:

"The defendant's 'Motion for a Writ of Error Coram Nobis' is denied. The defendant's motion is devoid of any claims for which relief can be granted. Clerk to notify defendant. The defendant's petition for *mandamus* is denied."

Defendant filed a timely notice of appeal from the above order.

¶ 7 On appeal, defendant appears to contend that the circuit court committed judicial misconduct when it *sua sponte* denied his "Writ of Error Coram Nobis & a Demand for Dismissal or State the Proper Jurisdiction." In particular, defendant asserts that the circuit court "deliberately avoided and disregarded [his] challenge of the true jurisdiction of the court [he] was convicted in." Defendant maintains that he was wrongly prosecuted in a "foreign state" as a corporate entity, and thus the State lacked the authority to charge him and the trial court had no jurisdiction to preside over the case, rendering his conviction a fraud. As relief, defendant requests that this court reverse his conviction and order that he be released from custody.

¶ 8 We initially note that defendant's *pro se* appellate brief is significantly deficient under Illinois Supreme Court Rule 341(h)(3),(6),(7) (eff. Feb. 6, 2013), particularly where it did not clearly define the issues, provide a statement of facts with citation to the record, or provide a cohesive argument. Therefore, defendant's appeal is subject to dismissal. See *McCann v. Dart*, 2015 IL App (1st) 141291, ¶ 20 (striking the plaintiff's brief and dismissing his appeal where it failed to comply with Supreme Court Rule 341). Notwithstanding, we decline to penalize defendant so severely for these lapses, particularly where we have a sufficient response brief from the State, and thus consider the merits of the case. *First National Bank of Marengo v. Loffelmacher*, 236 Ill. App. 3d 690, 692 (1992).

¶ 9 We further note that although defendant purports to have filed a writ of error *coram nobis*, such an action is no longer viable in Illinois. Section 2-1401 of the Code of Civil Procedure (Code) provides, in relevant part, that "[w]rits of error coram nobis \*\*\* are abolished," and that relief formerly available under that writ is obtainable under section 2-1401. 735 ILCS 5/2-1401(a) (West 2012); see also *G.M. Sign, Inc. v. Schane*, 2013 IL App (2d) 120434, ¶ 34 (acknowledging that section 2-1401 "is the current embodiment of the ancient common-law writ of error *coram nobis*"). Although we are unable to glean from the record how the court below treated defendant's pleading, we must presume, as the State appears to do on appeal, that the trial court considered said pleading as a petition for relief from judgment under section 2-1401 of the Code. See *People v. Gaultney*, 174 Ill. 2d 410, 420 (1996) (presuming that a trial judge knows and follows the law unless the record affirmatively indicates otherwise).

¶ 10 Generally, to obtain relief under section 2-1401, a defendant must prove by a preponderance of the evidence "a defense or claim that would have precluded entry of the judgment in the original action and diligence in both discovering the defense or claim and presenting the petition." *People v. Vincent*, 226 Ill. 2d 1, 7-8 (2007). "However, where a defendant seeks to vacate a final judgment as being void (735 ILCS 5/2-1401(f) (West 20[1]2)), the allegations of voidness 'substitute[] for and negate[] the need to allege a meritorious defense and due diligence.'" *Id.* at 7 n. 2 (quoting *Sarkissian v. Chicago Board of Education*, 201 Ill. 2d 95, 104 (2002)). A *sua sponte* denial of relief, as here, is reviewed *de novo*. *Vincent*, 226 Ill. 2d at 18. In reviewing such dismissals, we are not bound by the reasons relied upon by the circuit court, but may affirm on any basis supported by the record. *People v. Harvey*, 379 Ill. App. 3d 518, 521 (2008).

¶ 11 Here, we must first decide whether defendant's section 2-1401 petition was based on a claim that the judgment was void. We conclude, and thus agree with the State, that although not artfully pleaded, defendant's section 2-1401 petition was essentially predicated on a claim that his conviction was void for lack of jurisdiction.

¶ 12 The Illinois Supreme Court has traditionally recognized three elements of jurisdiction, *i.e.*, personal jurisdiction, subject matter jurisdiction, and the power to render the particular judgment or sentence.<sup>1</sup> *People v. Davis*, 156 Ill. 2d 149, 156 (1993). A judgment is void where the court that entered it lacked personal or subject matter jurisdiction, or lacked the inherent power to render the judgment or sentence. *Id.*

¶ 13 Section 1-5(a)(1) of the Criminal Code of 2012 provides that a defendant is subject to prosecution in Illinois for a criminal offense if it is "committed either wholly or partly within the State." 720 ILCS 5/1-5(a)(1) (West 2012); *People v. Young*, 312 Ill. App. 3d 428, 429-30 (2000). Thus, a trial court obtains subject matter jurisdiction when the State creates a justiciable controversy by filing criminal charges against the defendant with the court. *People v. Woodall*, 333 Ill. App. 3d 1146, 1156 (2002). A trial court obtains personal jurisdiction over a defendant when he appears before it. *People v. Mescall*, 379 Ill. App. 3d 670, 673 (2008). "Generally, once a court has acquired jurisdiction, no subsequent error or irregularity will oust the jurisdiction thus acquired. Accordingly, a court may not lose jurisdiction because it makes a mistake in determining \*\*\* the facts, the law or both." *Davis*, 156 Ill. 2d at 156.

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<sup>1</sup> The validity of the "inherent power" element of jurisdiction is currently pending in *People v. Castleberry*, No. 116916 (Jan. 29, 2014).

¶ 14 Here, defendant was charged under the Criminal Code of 1961 with aggravated battery of a child (720 ILCS 5/12-4.3(a)(5) (West 2008)), and domestic battery (720 ILCS 5/12-3.2(a)(1) (West 2008)), a controversy appropriate for consideration by the trial court. As indicated by the State in its brief on appeal, defendant does not contest the fact that the underlying conduct forming the basis of these charges occurred in Streamwood, Illinois, and thus the trial court had subject matter jurisdiction. Furthermore, the trial court had personal jurisdiction over defendant when he personally appeared before the court at his arraignment hearing on April 12, 2010. Where the trial court had subject matter and personal jurisdiction over defendant's case, his conviction and sentence were not void for either of these reasons. We also note that defendant cannot claim the trial court lacked the inherent power to sentence him to an extended term after he was found guilty of aggravated battery of a child and his criminal background was proven. It is also significant that he did not raise any sentencing issues on direct appeal. See *People v. Ward*, 187 Ill. 2d 249, 257 (1999) (stating that the failure to raise an issue on direct appeal generally results in the waiver of that issue).

¶ 15 In so finding, we note that instead of relying on Illinois law, defendant cites to irrelevant federal authority to support his claim that he was wrongly prosecuted in a "foreign" state as a "corporate entity." In particular, defendant relies on the Expatriation Act (8 U.S.C. § 1481 (2014)), which was primarily enacted "to protect naturalized citizens of the United States while in foreign jurisdictions." *People v. Jones*, 140 P.3d 325, 327 (Colo. App. 2006). Although the Expatriation Act did not define the manner in which the expatriation could take place, it is well settled that an American citizen loses his citizenship only if he voluntarily renounces it and performs one of the acts listed in the aforementioned act. *Id.* Here, as pointed out by the State,

defendant has not shown, or even claimed, that he renounced his citizenship or performed one of the acts of expatriation. Nevertheless, the Expatriation Act does not immunize expatriated defendants from criminal charges within the United States. See *Id.* at 327-29 (Colorado appellate court rejected the defendant's claim that the Expatriation Act removed jurisdiction from state court in a criminal prosecution where the defendant committed the offense in Colorado).

Therefore, the trial court had jurisdiction over defendant and his offenses, and there was no misconduct committed by the State or the court. As a result, the circuit court's *sua sponte* dismissal of defendant's section 2-1401 petition was proper where defendant completely failed to state a cause of action upon which relief could be granted.

¶ 16 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 17 Affirmed.