

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).

2015 IL App (4th) 140858-U

NO. 4-14-0858

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

August 17, 2015

Carla Bender

4th District Appellate

Court, IL

JOHN COLASURDO,)	Appeal from
Plaintiff-Appellant,)	Circuit Court of
v.)	Livingston County
RANDY PFISTER, Warden of Pontiac Correctional)	No. 14MR31
Center,)	
Defendant-Appellee.)	Honorable
)	Jennifer H. Bauknecht,
)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Justices Harris and Steigmann concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding the circuit court did not err in dismissing plaintiff's petition for *habeas corpus* relief where the juvenile court possessed personal and subject-matter jurisdiction over plaintiff's juvenile case.

¶ 2 In March 2014, plaintiff, John Colasurdo, an inmate at Pontiac Correctional Center (Pontiac), filed a petition for *habeas corpus* relief, requesting the circuit court to order defendant, Pontiac warden Randy Pfister, to release him from custody. In his petition, plaintiff alleged the juvenile court lacked jurisdiction to transfer his juvenile case to adult court because, though he allegedly committed the crime in question at the age of 14, he was over 21 years old when the delinquency petition was filed. In May 2014, defendant filed a motion to dismiss pursuant to section 2-615 of the Code of Civil Procedure (Civil Code) (735 ILCS 5/2-615 (West 2012)), asserting plaintiff failed to state a cause of action. In September 2014, the circuit court granted defendant's motion to dismiss.

¶ 3 Plaintiff appeals, asserting the circuit court erred by dismissing his petition for *habeas corpus* relief because the juvenile court did not have jurisdiction to consider a juvenile-delinquency claim filed after his 21st birthday. For the following reasons, we affirm.

¶ 4 I. BACKGROUND

¶ 5 In 1990, plaintiff, then 14 years old, allegedly committed the offense of murder. However, he was not charged with the offense until 2004, when he was 29 years old. The State initially filed the case in juvenile court due to plaintiff's age at the time the offense was committed (Kankakee County case No. 04-JD-90). Following a hearing pursuant to the discretionary-transfer provision of the Juvenile Court Act of 1987 (Juvenile Act) (705 ILCS 405/5-805(3) (2002)), plaintiff's case was transferred to adult court (Kankakee County case No. 04-CF-541). Plaintiff was subsequently convicted and, in July 2008, sentenced to life imprisonment. Plaintiff's conviction and sentence were affirmed on direct appeal (*People v. Colasurdo*, 404 Ill. App. 3d 1182 (2010) (table) (unpublished order under Supreme Court Rule 23)). His ensuing postconviction petition was summarily dismissed. His petition to file a successive postconviction petition based on a void sentence was also summarily dismissed; however, the Third District recently reversed and remanded the case for further proceedings on the successive postconviction petition. *People v. Colasurdo*, 2015 IL App (3d) 130341-U, ¶ 11.

¶ 6 In March 2014, plaintiff filed a petition for *habeas corpus* relief, wherein he alleged the juvenile court lacked jurisdiction to order his case discretionarily transferred to adult court pursuant to section 5-805 of the Juvenile Act because he was over 21 years old at the time of the transfer. Accordingly, plaintiff requested the circuit court grant him immediate release from custody.

¶ 7 In May 2014, defendant filed a motion to dismiss pursuant to section 2-615 of the Civil Code (735 ILCS 5/2-615 (West 2012)), asserting plaintiff's petition failed to state a cause of action entitling him to *habeas corpus* relief. Specifically, defendant argued the petition failed to demonstrate the juvenile court lacked subject-matter or personal jurisdiction over plaintiff. Defendant also contended the petition failed to allege a postconviction event that entitled plaintiff to immediate release.

¶ 8 In July 2014, plaintiff filed a motion for summary judgment, again asserting the juvenile court lacked jurisdiction to transfer his case to adult court. He further asserted the Juvenile Act was akin to a statute of limitations that required the State to prosecute any offenses against a juvenile prior to his 21st birthday.

¶ 9 In September 2014, the circuit court entered a docket entry granting defendant's motion to dismiss after finding plaintiff failed to allege a specific basis for *habeas corpus* relief.

¶ 10 This appeal followed.

¶ 11 II. ANALYSIS

¶ 12 On appeal, plaintiff argues the circuit court erred by dismissing his petition for *habeas corpus* relief because the juvenile court did not have jurisdiction to consider a juvenile-delinquency claim filed after his 21st birthday.

¶ 13 A. Standard of Review

¶ 14 The circuit court dismissed plaintiff's petition pursuant to section 2-615 of the Civil Code (735 ILCS 5/2-615 (West 2012)) for failure to state a cause of action. The purpose of a section 2-615(a) motion to dismiss is to challenge the legal sufficiency of the complaint where defects are apparent on its face. *Reynolds v. Jimmy John's Enterprises, LLC*, 2013 IL App (4th) 120139, ¶ 25, 988 N.E.2d 984. The question is "whether the facts alleged in the complaint,

viewed in the light most favorable to the plaintiff, and taking all well-pleaded facts and all reasonable inferences that may be drawn from those facts as true, are sufficient to state a cause of action upon which relief may be granted." *Id.* In doing so, we accept all well-pleaded facts as true. *Id.* ¶ 26, 988 N.E.2d 984. "The complaint must be construed liberally and should only be dismissed when it appears that the plaintiff cannot recover under any set of facts." *Hartmann Realtors v. Biffar*, 2014 IL App (5th) 130543, ¶ 14, 13 N.E.3d 350. Our review is *de novo*. *Reynolds*, 2013 IL App (4th) 120139, ¶ 25, 988 N.E.2d 984. Having established the standard of review, we next turn to the requirements for seeking *habeas corpus* relief.

¶ 15

B. *Habeas Corpus* Relief

¶ 16 Section 10-124 of the Civil Code enumerates the only circumstances in which *habeas corpus* relief may be granted. 735 ILCS 5/10-124 (West 2012). "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 v. Walker*, 231 Ill. 2d 51, 58, 896 N.E.2d 327, 332 (2008). Where a petition for *habeas corpus* relief fails to demonstrate one of the aforementioned defects, it must fail, even if the petitioner alleges a violation of his constitutional rights. *Id.* Accordingly, we need not consider plaintiff's arguments regarding the admissibility or sufficiency of the evidence. Rather, our analysis is restricted to whether plaintiff's complaint demonstrates (1) the juvenile court lacked jurisdiction, or (2) some occurrence subsequent to plaintiff's conviction entitles him to relief. See *id.* As plaintiff's complaint does not assert an occurrence subsequent to his conviction entitles him to relief, we must look to whether the juvenile court possessed personal and subject-matter jurisdiction over plaintiff.

¶ 17 A circuit court obtains personal jurisdiction over a party when that party personally appears before the court. *People v. Speed*, 318 Ill. App. 3d 910, 915, 743 N.E.2d 1084, 1088 (2001). Here, plaintiff personally appeared before the juvenile court; thus, personal jurisdiction has been established.

¶ 18 Subject-matter jurisdiction is "a court's power to hear and determine cases of the general class to which the proceeding in question belongs [Citations.]." (Internal quotation marks omitted.) *In re Luis R.*, 239 Ill. 2d 295, 300, 941 N.E.2d 136, 140 (2010). The Illinois Constitution provides, "[c]ircuit [c]ourts shall have original jurisdiction of 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. Circuit [c]ourts shall have such power to review administrative action as provided by law." Ill. Const. 1970, art. VI, § 9. As a result, except in administrative-review cases, an Illinois circuit court possesses subject-matter jurisdiction over all "justiciable matters" brought before it. *Luis R.*, 239 Ill. 2d at 301, 941 N.E.2d at 140. In determining whether a circuit court has subject-matter jurisdiction, "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." (Emphasis in original.) *Id.*

¶ 19 Under the Juvenile Act, the State possesses the authority to file delinquency petitions against a minor provided (1) the alleged crime was committed prior to the minor's 17th birthday, and (2) the minor is under the age of 21. 705 ILCS 405/5-105(10), 5-120 (West 2002). In *Luis R.*, the respondent committed an offense prior to the age of 17; however the State did not prosecute him until after he reached the age of 21. *Luis R.*, 239 Ill. 2d at 297, 941 N.E.2d at 138. The respondent moved to dismiss the delinquency petition for lack of jurisdiction because he was

over the age of 21. *Id.* The trial court granted the motion and the appellate court affirmed. *Id.* at 298, 941 N.E.2d at 138.

¶ 20 The supreme court reversed the lower courts' orders, holding the face of the petition alleged a justiciable matter that conferred subject-matter jurisdiction on the juvenile court. *Id.* at 302-03, 941 N.E.2d at 141. The *Luis R.* court acknowledged the respondent's motion to dismiss asserted the delinquency petition was legally defective because the respondent was over 21 years of age; however, it concluded "the tribunal with the authority to make that decision is the tribunal with subject[-]matter jurisdiction." *Id.* at 303, 941 N.E.2d at 141. In other words, the juvenile court possessed subject-matter jurisdiction over the respondent's claim, despite the respondent's assertion that the petition was defective.

¶ 21 The same outcome applies here. Plaintiff's assertion that the juvenile court lacked subject-matter jurisdiction over him once he turned 21 years old is contradicted by the supreme court's holding in *Luis R.* Just as in *Luis R.*, we conclude the juvenile court had the authority to determine whether the State's petition was appropriately filed. Accordingly, the juvenile court had subject-matter jurisdiction over plaintiff.

¶ 22 Because we have concluded the juvenile court had both personal and subject-matter jurisdiction over plaintiff, and plaintiff has alleged no subsequent occurrence that would entitle him to relief, plaintiff's complaint fails to state a cause of action. Therefore, the circuit court did not err in dismissing his petition for *habeas corpus* relief.

¶ 23 III. CONCLUSION

¶ 24 For the foregoing reasons, we affirm the circuit court's judgment.

¶ 25 Affirmed.