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FIFTH DIVISION
December 15, 2017

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

JAMES SARDIN,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	
)	
THE PEOPLE OF THE STATE OF ILLINOIS,)	15 CH 15551
THE ILLINOIS TORTURE INQUIRY AND RELIEF)	
COMMISSION, ROB OLMSTEAD, BARRY MILLER,)	
CHERYL STARKS, LEONARD CAVISE, CHARLES)	
DAHM, CRAIG FUTTERMAN, JOHN MATHIAS,)	
PAUL ROLDAN, MARCIE THORP, and ROB)	
WARDEN,)	The Honorable
)	Sophia H. Hall,
Defendants-Appellees.)	Judge Presiding.

JUSTICE LAMPKIN delivered the judgment of the court.
Presiding Justice Reyes and Justice Rochford concurred in the judgment.

ORDER

¶1 *HELD:* Plaintiff’s complaint for administrative review was properly dismissed where he failed to comply with the Administrative Review Law by failing to name the proper defendant and failing to serve process within the applicable time period.

¶2 Plaintiff, James Sardin, appears *pro se* to appeal the dismissal of his administrative review action, in which he claimed defendant, the Illinois Torture Inquiry and Relief Commission (Commission), erred in summarily dismissing his torture claim based on lack of jurisdiction. Plaintiff asks this court to review the substance of his torture claim. Based on the following, we affirm.

¶3 **FACTS**

¶4 On June 22, 2011, Sardin filed a *pro se* torture claim with the Commission pursuant to the Illinois Torture Inquiry and Relief Commission Act (Torture Act) (775 ILCS 40/1 *et seq.* (West 2010)). At the time, he was an inmate in the Illinois Department of Corrections. In the claim, Sardin alleged Chicago police officers, under the supervision of Jon Burge, procured a false signed statement and false grand jury testimony from Melinda Graham, the sole eyewitness to testify at his trial. Graham was 16 years old and pregnant when questioned by the police. According to Sardin's claim, the officers interrogated Graham over the course of two days without the presence of a parent or lawyer. The officers allegedly deprived the witness of sleep, threatened incarceration, and threatened to take her unborn child. Sardin acknowledged the Commission was created to investigate claims by convicts that had been tortured into confessing to their crimes; however, he maintained that the investigations should be expanded to include tortured witnesses as well.

¶5 On June 18, 2014, the Commission summarily dismissed Sardin's claim for lack of jurisdiction where the claim alleged a witness was tortured, not that he was tortured himself. The Commission explained that the Torture Act only authorized the investigation of a torture claim by a convicted person alleging he was tortured into confessing to a crime by Jon Burge or

detectives working under Burge,¹ and the confession was used to obtain a conviction. The Commission's decision was served upon Sardin on June 20, 2014.

¶6 In a motion dated February 19, 2015, Sardin requested a stay of the summary dismissal of his torture claim and leave to file an amended complaint for administrative review and to issue summonses. Sardin filed the motion in conjunction with his criminal case, but used an alternate caption in which he was the named plaintiff and the named defendants were six police detectives, a police sergeant, three Assistant State's Attorneys (ASAs), a doctor, Graham, Graham's mother, and another individual. In the motion, Sardin claimed he had mailed a complaint requesting administrative review of the Commission's decision on July 22, 2014, but he had not received a file-stamped copy in return. According to Sardin, he named as defendants various police detectives, ASAs, and the City of Chicago in the July 2014 complaint. Sardin's February 2015 motion was not file-stamped and did not include a proposed amended complaint. Sardin did not execute service of process on the Commission. Instead, Sardin mailed copies of his February 2015 motion to the Commission on September 6, 2015. Pursuant to the Commission's request, this matter was transferred from the criminal division to the chancery court in October 2015.

¶7 The Commission responded by filing a motion to dismiss Sardin's action. The Commission stated that it was treating Sardin's February 2015 motion as a complaint for administrative review since it had not yet received any such prior complaint. The Commission argued Sardin's action was subject to dismissal for failure to comply with the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (West 2010)) requirement that a complaint for administrative review be filed within 35 days of service of the Commission's decision. The Commission additionally argued Sardin failed to name the necessary parties to the litigation and

¹ The scope of the Act has since been expanded to include any claim of a torture-induced confession occurring in Cook County, not merely those committed by, or under the supervision of, Jon Burge. Pub. Act. 99-0688 (eff. July 29, 2016).

to file an affidavit designating the last known addresses of each defendant to facilitate service of process. Moreover, the Commission argued Sardin failed to state a cognizable cause of action where his claim alleged a witness was tortured, not himself.

¶8 On December 15, 2015, Sardin filed a motion requesting that the circuit clerk turn over his timely filed complaint that he mailed in July 2014. The motion additionally reiterated that Graham was tortured into providing false testimony, which was a cognizable cause of action. Then, on January 21, 2016, Sardin filed a response to the Commission's motion to dismiss by again repeating that he had timely filed his complaint and arguing that the Commission's refusal to consider his witness torture claim violated his equal protection rights.

¶9 On February 26, 2016, the Commission filed a reply in support of its motion to dismiss. In the reply, the Commission noted that it had obtained a copy of Sardin's July 2014 complaint from the circuit court clerk's office. The July 2014 complaint named six detectives, three ASAs, and the City of Chicago as defendants. As a result, the Commission withdrew its argument regarding the timely filing of Sardin's complaint. In conjunction with the July 2014 complaint, Sardin had sent a notice and proof of service to the state's attorney's office and requested that the circuit court clerk send summonses to defendants. However, Sardin personally mailed a summons to the Commission in September 2015. The summons was not issued by the clerk of the court or served by a process server. The Commission maintained that Sardin's action remained subject to dismissal because he failed to comply with the Administrative Review Law in other respects, namely, he failed to designate the last known address of each defendant to facilitate service of process and he failed to obtain issuance of summonses within 35 days of the Commission's decision.

¶10 On March 24, 2016, the Commission filed another motion to dismiss Sardin’s action, arguing that Sardin failed to comply with the Administrative Review Law by failing to name the necessary parties as defendants and failing to obtain issuance of summonses within 35 days of service of the Commission’s summary dismissal order. On May 2, 2016, Sardin responded by modifying the caption of his complaint to reflect the Commission and Commission’s personnel as “movants/respondents.” Sardin claimed that, while the matter was pending in criminal court in August 2015, the court orally allowed him to amend his complaint to add the Commission as a defendant. Sardin cited section 3-107 of the Administrative Review Law wherein the circuit court must open a 35-day window to amend a complaint to name an unnamed defendant and serve summons. Sardin reiterated that he personally mailed summonses to the Commission and Commission personnel on September 4, 2015. The Commission filed a reply in support of its amended motion to dismiss. In its reply, the Commission argued that, although the criminal court opened a 35-day window to amend his complaint on August 12, 2015, Sardin did not timely file an amended complaint within that 35-day window.

¶11 The circuit court ultimately dismissed Sardin’s action with prejudice. In a May 11, 2016, written order, the court held that Sardin failed to name the necessary parties as defendants and failed to timely obtain service of process. This appeal followed.

¶12 ANALYSIS

¶13 Sardin contends the circuit court erred in failing to address the substance of his torture claim. The Commission responds that Sardin’s complaint was properly dismissed where he failed to comply with the Administrative Review Law.

¶ 14 Before we can turn to the substantive reason the Commission summarily dismissed Sardin's complaint, we must address the Commission's jurisdictional arguments related to Sardin's lack of compliance with the Administrative Review Law.

¶ 15 We review *de novo* a circuit court's order dismissing an action for failure to comply with the Administrative Review Law. See *Grady v. Illinois Department of Healthcare & Family Services*, 2016 IL App (1st) 152402, ¶ 9.

¶ 16 Pursuant to section 3-102 of the Administrative Review Law, “[u]nless review is sought of an administrative decision within the time and in the manner herein provided, the parties to the proceeding before the administrative agency shall be barred from obtaining judicial review of such administrative decision.” 735 ILCS 5/3-102 (West 2010). See *ESG Watts, Inc. v. Pollution Control Board*, 191 Ill. 2d 26, 30 (2000) (administrative review actions involve the exercise of “special statutory jurisdiction” and, therefore, a party seeking to invoke that jurisdiction must strictly comply with the prescribed procedures). In relevant part, section 3-103 of the Administrative Review Law states that an administrative review action must be “commenced by the filing of a complaint and the issuance of summons within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision.” 735 ILCS 5/3-103 (West 2010). Moreover, section 3-107 of the Administrative Review Law provides:

“in any action to review any final decision of an administrative agency, the administrative agency and all persons, other than the plaintiff, who were parties of record to the proceedings before the administrative agency shall be made defendants.” 735 ILCS 5/3-107(a) (West 2010).

¶17 The Commission abandoned its claim that Sardin failed to timely file his complaint for administrative review, conceding that he submitted a complaint on July 22, 2014, which was within 35 days of service of the Commission's June 20, 2014, decision summarily dismissing his torture complaint. That said, Sardin and the Commission, with Cheryl Starks named as the Commission chair, were the parties of record to the challenged proceedings before the Commission. It is undisputed that Sardin failed to name the Commission in either his July 22, 2014, complaint or his February 19, 2015, pleading that the Commission initially considered his complaint for administrative review. In those "complaints," Sardin named various detectives, ASAs, and the City of Chicago, as well as Graham, Graham's mother, and a doctor in the February pleading. In fact, Sardin only named the Commission and the Commission's personnel as "movants/respondents" on May 2, 2016.

¶18 Section 3-107(a) of the Administrative Review Law, however, additionally provides:

"If, during the course of a review action, the court determines that an agency or a party of record to the administrative proceedings was not made a defendant as required by the preceding paragraph, then the court shall grant the plaintiff 35 days from the date of the determination in which to name and serve the unnamed agency or party as a defendant." 735 ILCS 5/3-107 (West 2010).

¶19 Sardin alleged that, on August 12, 2015, following the filing of his February 2015 pleading in the criminal court, the criminal court advised him to add the Commission as a defendant and granted him 35 days to do so. Sardin failed to comply with that time extension. As stated, the Commission was not named in any capacity until May 2, 2016.

¶20 Moreover, there is no evidence that Sardin properly executed service of process within the requisite 35 days. According to the Commission, and conceded by Sardin, Sardin merely

mailed a copy of his February 2015 pleading to the Commission directly without requesting that the circuit court clerk's office issue summons. Additionally, there is no evidence the July 2014 complaint was served on the Commission. Sardin alleged he sent notice to the state's attorney's office and requested that the circuit court clerk send summonses to the improperly named defendants; however, there is no evidence the Commission was properly notified of the litigation. On appeal, Sardin does not address the jurisdictional matters identified herein. Sardin, therefore, has forfeited any arguments related to his failure to comply with the Administrative Review Law. Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016) (“[p]oints not argued are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing”).

¶21 Because Sardin failed to strictly comply with the dictates of the relevant Administrative Review Law, we conclude his complaint for administrative review was properly dismissed.

¶22 CONCLUSION

¶23 We affirm the dismissal of plaintiff's complaint for administrative review.

¶24 Affirmed.