

No. 1-18-2357

**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 DISTRICT

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TODD WILLIAMS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County
	)	
v.	)	No. 18 CH 3588
	)	
BRUCE RAUNER, in His Official Capacity as	)	
Governor of Illinois; JAMES	)	
T. DIMAS, in His Official Capacity as Secretary of the	)	
Illinois Department of Human Services; and	)	
FRANCISCO ALVARADO, in His Official Capacity	)	
as Director of the Illinois Division of Rehabilitation	)	
Services, Client Assistance Program,	)	Honorable
	)	Franklin U. Valderrama,
Defendants-Appellees.	)	Judge, Presiding.

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PRESIDING JUSTICE HOFFMAN delivered the judgment of the court.  
Justices Rochford and Delort concurred in the judgment.

¶ 1 *Held:* We affirm the circuit court's order granting the defendants' motion to dismiss the plaintiff's *mandamus* complaint pursuant to section 2-615 of the Code of Civil Procedure because the plaintiff did not, and could not, allege sufficient facts to establish that he was entitled to *mandamus* relief.

¶ 2 The plaintiff, Todd Williams, appeals *pro se* from an order of the circuit court of Cook County dismissing his complaint for *mandamus* against Bruce Rauner, the former Governor of Illinois, James T. Dimas, the former Secretary of the Illinois Department of Human Services (Department), and Francisco Alvarado, the former Director of the Illinois Division of Rehabilitation Services (Division), Client Assistance Program (CAP).<sup>1</sup> For the reasons that follow, we affirm.

¶ 3 The following facts necessary to resolve this appeal are taken from the allegations in the plaintiff's complaint, exhibits, and judicial decisions of record. On July 11, 2018, the plaintiff, acting *pro se*, filed an action for *mandamus* against the Governor, the Secretary of the Department, and the Director of the CAP, seeking an order directing the Governor to designate the CAP as an entity "independent of the Illinois Department of Human Services or the Illinois Division of Rehabilitation Services."

¶ 4 The defendants filed a combined motion to dismiss under section 2-619.1 of the Code (735 ILCS 5/2-619.1 (West 2016)). The defendants sought dismissal under section 2-615 of the Code (735 ILCS 5/2-615) (West 2016)), alleging that the plaintiff's complaint failed to state a cause of action for *mandamus*; and under section 2-619(a)(9) of the Code (735 ILCS 5/2-619(a)(9) (West 2016)), alleging that the plaintiff does not have standing to bring the action.

¶ 5 In response, the plaintiff maintained that, because section 732(c)(1)(A) of the Rehabilitation Act of 1973 (Act) (29 U.S.C. § 732 (c)(1)(A) (West 2016)) requires the Governor to designate the CAP as an entity independent from the Department or Division, the Governor had no discretion to act and he was entitled to *mandamus* relief. The plaintiff also argued that he

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<sup>1</sup> When the plaintiff filed this action, Rauner was the Governor, Dimas was the Secretary of the Department, and Alvarado was the Director of the CAP. Since then, JB Pritzker succeeded Rauner as Governor, Grace B. Hou succeeded Dimas as Secretary, and Kari Wright succeeded Alvarado as Manager of the CAP. All three of these new public officials should have been substituted as parties in the case pursuant to section 2-1008(d) of the Code of Civil Procedure (Code) (735 ILCS 5/2-1008(d) (2018)). However, for purposes of consistency, the names of the public officials mentioned in this order will reflect the names of those in office at the time the action was filed.

has standing to bring this action because the CAP's inability to provide him with the requested legal services to which he is entitled under the Act places his claim within the "zone of interests" protected by the Act.

¶ 6 On November 1, 2018, the circuit court entered an order granting the defendants' motion to dismiss pursuant to section 2-615 of the Code, finding that the plaintiff failed to state a cause of action for *mandamus*. This appeal followed.

¶ 7 As this case comes to us on appeal from a dismissal pursuant to section 2-615 of the Code, our review is *de novo*. *King v. First Capital Financial Services Corp.*, 215 Ill. 2d 1, 12 (2005). The issue presented is whether the allegations contained in the plaintiff's complaint, taken as true and construed in the light most favorable to the plaintiff, are sufficient to state a cause of action upon which relief may be granted. *Id.* at 11-12. An action should be dismissed pursuant to section 2-615 of the Code only where no set of facts can be proven that would entitle the plaintiff to the relief he seeks. *Marshall v. Burger King Corp.*, 222 Ill. 2d 422, 429 (2006).

¶ 8 Therefore, we must determine whether the facts alleged in the plaintiff's complaint entitle him to a writ of *mandamus*. That is, whether the allegations in the complaint establish a clear right of recovery on the part of the plaintiff and a clear, non-discretionary duty on the part of the Governor. *McFatridge v. Madigan*, 2013 IL 113676, ¶ 16.

¶ 9 "*Mandamus* is an extraordinary remedy used to compel a public officer to perform nondiscretionary official duties." *People ex rel. Senko v. Meersman*, 2012 IL 114163, ¶ 9. "In order to obtain a *mandamus* remedy, the plaintiff must establish a clear right to the requested relief, a clear duty of the public officer to act, and clear authority of the public officer to comply with the order." *McFatridge*, 2013 IL 113676, ¶ 17. "A writ of *mandamus* is appropriate when used to compel compliance with mandatory legal standards but not when the act in question involves the exercise of a public officer's discretion." *Id.*

¶ 10 Again, the plaintiff filed the instant action seeking an order directing the Governor to designate the CAP as an entity independent of the Department and the Division. The plaintiff alleged that his right to *mandamus* is based, *inter alia*, upon the provisions of section 732(c)(1)(A) of the Act. 29 U.S.C. § 732(c)(1)(A) (West 2016). We are required, therefore, to construe section 732(c)(1)(A) of the Act.

¶ 11 In construing a statute, our primary objective is to ascertain and give effect to the intent of the legislature. *People v. Howard*, 233 Ill. 2d 213, 218 (2009). The most reliable indicator of the legislature’s intent is the language of the statute itself, which must be given its plain and ordinary meaning. *Id.* However, “we look to the nonbinding federal law as persuasive authority when construing federal statutes due to the importance of maintaining uniform interpretations.” *City of Chicago v. Comcast Cable Holdings, L.L.C.*, 231 Ill. 2d 399, 414 (2008).

¶ 12 Under the Act, federal funding is made available to states to establish and carry out client assistance programs to provide information regarding vocational rehabilitation services that are available to individuals with disabilities. 29 U.S.C. § 732(a), (b) (West 2016). Section 732(b) of the Act prohibits a state from receiving funding unless it has a client assistance program which: “(1) has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatments, services, or rehabilitation under this chapter within the State; and (2) meets the requirements of designation under subsection (c).” 29 U.S.C. § 732(b) (West 2016).

¶ 13 Section 732(c)(1)(A) of the Act provides:

“The Governor shall designate a public or private agency to conduct the client assistance program under this section. Except as provided in the last sentence of this subparagraph, the Governor shall designate an agency which is independent of any agency

which provides treatment, services, or rehabilitation to individuals under this chapter. If there is an agency in the State which has, or had, prior to February 22, 1984, served as a client assistance agency under this section and which received Federal financial assistance under this chapter, the Governor may, in the initial designation, designate an agency which provides treatment, services, or rehabilitation to individuals with disabilities under this chapter.” 29 U.S.C. § 732(c)(1)(A) (West 2016).

¶ 14 The plaintiff maintained that the Governor had no discretion to act and that he was entitled to *mandamus* relief because the Act requires the Governor to designate the CAP as “independent of any agency which provides treatment, services, or rehabilitation to individuals” under the Act. We disagree.

¶ 15 Section 732 of the Act is a funding statute. The plain language of the Act reveals that the requirement that a state’s client assistance program be independent of any agency that provides services under the Act relates only to the state’s eligibility to receive federal funding. See 29 U.S.C. § 732 (a)-(c), (e)-(h) (West 2016); see also *Ohio Council of Blind v. Voinovich*, 1994 WL 504405, at \*14 (S.D. Ohio Mar. 28, 1994). The decision whether to designate the CAP as an agency independent of any agency that provides “treatment, services, or rehabilitation to individuals” under the Act is a decision left to the sound discretion of the Governor, even if it may result in the loss of federal funding. *Voinovich*, 1994 WL 504405, at \*14. *Mandamus* is not an appropriate remedy when the act in question requires the exercise of a public officer’s discretion. *McFatridge*, 2013 IL 113676, ¶ 17.

¶ 16 Moreover, the language of the statute provides the *Governor* with discretionary power to designate the CAP as independent from another agency. It makes no mention of the discretionary

authority of any other officers with respect to client assistance programs. We find, therefore, that the circuit court correctly dismissed the plaintiff's action against Dimas and Alvarado because he did not allege facts showing that either had a duty or the authority to make the CAP independent of the Department or Division. See *Bremen Community High School District No. 228 v. Cook County Comm'n on Human Rights*, 2012 IL App (1st) 112177, ¶ 18 (plaintiff must set forth allegations of material facts establishing the defendants' duty to act, "mere conclusions will not suffice").

¶ 17 Based upon the foregoing analysis, we conclude that the plaintiff's complaint failed to allege a clear, non-discretionary duty on the part of the Governor (or any other officer) to designate the CAP as independent of the Department or Division and, as such, failed to state a cause of action for *mandamus*. Having determined that the plaintiff failed to state a cause of action for *mandamus*, we need not reach the issue of standing. We, therefore, affirm the judgment of the circuit court dismissing the action.

¶ 18 Affirmed.