2019 IL App (3d) 170721-U

Order filed October 8, 2019

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2019

FABIAN EASON,	)	Appeal from the Circuit Court
	)	of the 9th Judicial Circuit,
Plaintiff-Appellant,	)	Knox County, Illinois.
	)	
v.	)	
	)	Appeal No. 3-17-0721
	)	Circuit No. 17-MR-144
STEPHANIE DORETHY, Warden of Hill	)	
Correctional Center,	)	Honorable
	)	Scott Shipplett,
Defendant-Appellee.	)	Judge, Presiding.

JUSTICE CARTER delivered the judgment of the court.
Presiding Justice Schmidt and Justice Wright concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed the trial court's *sua sponte* denial of the plaintiff's *habeas corpus* complaint.

¶ 2 Plaintiff, Fabian Eason, was convicted of first degree murder for the shooting death of Lakesha Walker and was sentenced to 45 year of imprisonment. The shooting took place on September 4, 1998, when Eason was 16 years old. Eason filed a *habeas corpus* complaint, which the trial court denied *sua sponte*. Eason appealed, arguing the trial court erred in denying his

complaint because: (1) his conviction was void where the statute under which his case was transferred from juvenile to criminal court was declared unconstitutional; and (2) the State violated his right to a speedy trial. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On September 21, 2017, Eason filed a complaint for an order of *habeas corpus* pursuant to section 10-101 of the Code of Civil Procedure (Code) (735 ILCS 5/10-101 *et seq.*) (West 2016)). In his *habeas corpus* complaint, Eason argued, *inter alia*, that the trial court had no jurisdiction to enter a conviction against him because the statute under which he was transferred from juvenile to criminal court had been declared unconstitutional by the Illinois Supreme Court in *People v. Cervantes*, 189 Ill. 2d 80, 98-99 (1999). Eason indicated that he was charged with first degree murder on September 25, 1998, when he was 16 years old and "Public Act 88-680 was the controlling law regarding juvenile offenders." Eason argued the indictment charging him with murder was void because the State failed to file a motion to transfer his case to criminal court and Public Act 88-680 (eff. Jan. 1, 1995) (known as the "Safe Neighborhoods Law"), which added a rebuttable presumption provision in favor of transferring certain cases to criminal court, had been declared void *ab initio* by the Illinois Supreme Court.

¶ 5 The trial court *sua sponte* denied Eason's complaint for *habeas corpus* relief. Eason appealed.

¶ 6 II. ANALYSIS

¶ 7 On appeal, Eason contends the trial court erred in denying his complaint for *habeas corpus* relief. Defendant argues that Eason's complaint failed to state a claim for *habeas corpus* relief and, thus, this court should affirm the circuit court's denial of the complaint.

¶ 8 *Habeas corpus* provides relief only on the grounds specified in section 10-124 of the Code (735 ILCS 5/10-124 (West 2016)). *Beacham v. Walker,* 231 Ill. 2d 51, 58 (2008). Section 10-124 provides:

> "If it appears that the prisoner is in custody by virtue of process from any court legally constituted, he or she may be discharged only for one or more of the following causes:
>
> 1. Where the court has exceeded the limit of its jurisdiction, either as to the matter, place, sum or person.
>
> 2. Where, though the original imprisonment was lawful, nevertheless, by some act, omission or event which has subsequently taken place, the party has become entitled to be discharged.
>
> 3. Where the process is defective in some substantial form required by law.
>
> 4. Where the process, though in proper form, has been issued in a case or under circumstances where the law does not allow process to issue or orders to be entered for imprisonment or arrest.
>
> 5. Where, although in proper form, the process has been issued in a case or under circumstances unauthorized to issue or execute the same, or where the person having the custody of the prisoner under such process is not the person empowered by law to detain him or her.
>
> 6. Where the process appears to have been obtained by false pretense or bribery.

> 7. Where there is no general law, nor any judgment or order of a court to authorize the process if in a civil action, nor any conviction if in a criminal proceeding. No court, on the return of a *habeas corpus*, shall, in any other matter, inquire into the legality or justice of a judgment of a court legally constituted." 735 ILCS 5/10-124 (West 2016).

¶ 9 The seven grounds for *habeas corpus* relief fall into two general categories: (1) the prisoner was incarcerated by a court that lacked personal or subject matter jurisdiction; or (2) some occurrence subsequent to the conviction entitles the prisoner to immediate release. *Beacham*, 231 Ill. 2d at 58. A complaint for order of *habeas corpus* may not be used to review proceedings that do not exhibit one of these defects, even if the error alleged involves a denial of constitutional rights. *Id.* Although a void order or judgment may be attacked at any time, including within a *habeas* proceeding, the remedy of *habeas corpus* is not available to review errors that merely render a judgment voidable and are nonjurisdictional in nature. *Id.*

¶ 10 A circuit court may deny, *sua sponte*, a *habeas corpus* complaint that is insufficient on its face. *Id.* at 59. A circuit court's *sua sponte* denial of a *habeas corpus* complaint is reviewed *de novo*. *Hennings v. Chandler*, 229 Ill. 2d 18, 24 (2008).

¶ 11 A. Public Act 88-680

¶ 12 On appeal, Eason argues that the trial court erred in denying his *habeas corpus* complaint because his conviction for first degree murder was void as the result of his case being improperly transferred to criminal court pursuant to subsection 3.3 of section 5-4 of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/5-4(3.3) (West 1996)). Under certain conditions, subsection 3.3 of section 5-4 of the Juvenile Court Act created a presumption in favor of transferring a minor's case to criminal court. *Id.* Subsection 3.3 was added to section 5-4 of the

Juvenile Court Act by article 5 of Public Act 88-680, which became effective on January 1, 1995. See Pub. Act. 88-680 (eff. Jan. 1, 1995).

¶ 13 On December 2, 1999, Public Act 88-680 was declared void *ab initio* in its entirety by the Illinois Supreme Court as having violated the single subject rule of the Illinois Constitution. *Cervantes*, 189 Ill. 2d at 98-99. Consequently, the amendments to the Juvenile Court Act made pursuant to Public Act 88-680 had no force or effect, as if they had never been passed. *People v. Brown*, 225 Ill. 2d 188, 199 (2007). Therefore, if Eason's case had been transferred from juvenile court to criminal court pursuant to the void transfer provision of Public Act 88-680, as Eason contends, he would be entitled to a new transfer hearing on remand in accordance with the law in effect prior to the amendment. See *id.* at 199-200 ("[b]ecause the Safe Neighborhoods Law is void *ab initio*, the version of the Juvenile Court Act in existence prior to its amendment by that legislation remained in effect"). Following a new transfer hearing on remand, if the trial court determined the case should not be transferred to criminal court (after applying the version of the Juvenile Court Act of 1987 in effect prior to the enactment of the Safe Neighborhoods Law), Eason's conviction could not be allowed to stand. See *id.* at 200-02 (under such circumstance, the proper disposition of the conviction and sentence would depend on the outcome of the new transfer hearing on remand). On the other hand, if the trial court determined a transfer was appropriate, there would be no basis for Eason's contention that his conviction is void. See *id.* at 203.

¶ 14 However, there is no indication in the record that Eason was transferred to criminal court pursuant to the void transfer provision that had been added to Juvenile Court Act by the enactment of Public Act 88-680. Rather, Eason was presumably automatically transferred to criminal court pursuant to the mandatory transfer provision of the Juvenile Court Act, which had

provided that the Juvenile Court Act was not applicable to a minor who at the time of an offense was at least 15 years of age and was charged with first degree murder and provided such a murder charge "shall be prosecuted under the Criminal Code of 1961."[1] See 705 ILCS 405/5-4(6)(a) (West 1996) (repealed by Pub. Act. 90-590 (eff. Jan. 1, 1999) (now codified, as amended, at 705 ILCS 405/5-130(1)(a) (West 2018)). Because Eason was 16 years old when he was charged with first degree murder, the applicable law at the time mandated that he be automatically transferred to criminal court and, if convicted, sentenced as an adult. See *id.* Therefore, based on the record before this court, we find no merit to Eason's claim that his conviction was void due to an improper transfer of his case from juvenile to criminal court.

¶ 15 B. Speedy Trial Violation

¶ 16 Eason additionally argues that absent a valid transfer of his case from juvenile to criminal court, the State had 120 days after his arrest to obtain a determination of delinquency in juvenile court in accordance with section 103-5 of the Code of Criminal Procedure of 1963 (Code of Criminal Procedure) (725 ILCS 5/103-5(a) (West 1996)), which indicated that a person "in custody" for an alleged offense shall be tried within 120 days from time he or she was taken into custody). Eason contends that because the State failed to "try" him in juvenile court within 120 days of his arrest, his conviction is void.

¶ 17 As discussed above, without any indication in the record otherwise, we presume that Eason's case was automatically transferred to criminal court in accordance with the applicable law at the time. Therefore, Eason's argument that his case should have remained in juvenile court and, as a result, the State committed a speedy trial violation under section 103-5(a) of the Code of Criminal Procedure due to its failure to adjudicate him delinquent within 120 days of his

[1] The records from Eason's criminal murder case are not included in the record presented on appeal in this case.

arrest is without merit.[2] For the foregoing reasons, we conclude the trial court did not err in *sua sponte* denying Eason's *habeas corpus* complaint. We, therefore, affirm.

¶ 18 III. CONCLUSION

¶ 19 The judgment of the circuit court of Knox County is affirmed.

¶ 20 Affirmed.

[2] We also note that the speedy trial provision of section 103-5(a) of the Code of Criminal Procedure would not have been applicable to any such juvenile proceedings. See *People v. Woodruff*, 88 Ill. 2d 10, 15-16 (1981) ("a proceeding under the Juvenile Court Act is distinct and different from a criminal prosecution, and the provisions of the [Juvenile Court] Act apply exclusively to juvenile offenders until such time as the court authorizes criminal prosecution").