

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).

2014 IL App (4th) 130548-U

NO. 4-13-0548

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

EARL EDWARDS,

Plaintiff-Appellant,

v.

THE DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

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Appeal from

Circuit Court of

Sangamon County

No. 12CH1473

Honorable

Patrick W. Kelley,

Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.

Presiding Justice Appleton and Justice Turner concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court properly granted DOC's section 2-615 motion to dismiss as Edwards presented no facts supporting his claim DOC violated his constitutional rights.

¶ 2 In December 2012, Earl Edwards filed a *pro se* complaint seeking injunctive relief against the Illinois Department of Corrections (DOC) alleging the Illinois truth-in-sentencing law (730 ILCS 5/3-6-3(a)(2) (West 2012)) was unconstitutional under the single-subject rule. In May 2013, the trial court granted DOC's motion to dismiss (735 ILCS 5/2-615 (West 2012)), holding Edwards' complaint was without merit. Edwards appeals arguing (1) DOC is improperly calculating Edwards' sentence under the truth-in-sentencing law in violation of the Illinois Constitution and (2) the truth-in-sentencing law violates the equal-protection clause of the fourteenth amendment. We affirm.

¶ 3

I. BACKGROUND

¶ 4

A. Statutes at Issue

¶ 5

Section 3-6-3(a)(2) of the Unified Code of Corrections (Code), also known as the truth-in-sentencing law, limits sentencing credit certain prisoners are eligible to receive. 730 ILCS 5/3-6-3(a)(2) (West 2012). The truth-in-sentencing law requires Edwards, who was convicted of aggravated criminal sexual assault, to serve at least 85% of his court-imposed sentence. 730 ILCS 5/3-6-3(a)(2)(ii) (West 2012).

¶ 6

Truth-in-sentencing was first enacted in 1995, pursuant to Public Act 89-404, § 40 (eff. Aug. 20, 1995). Before this Act's passage, those convicted of certain crimes were eligible to earn one day of good-conduct credit for each day in prison. See 730 ILCS 5/3-6-3(a)(2) (West 1994). In *Reedy*, the Second District held Public Act 98-404 unconstitutional as it was enacted in violation of the single-subject rule of the Illinois constitution of 1970 (Ill. Const. 1970, art. IV, § 8(d)). *People v. Reedy*, 295 Ill. App. 3d 34, 36, 692 N.E.2d 376, 379 (1998). The *Reedy* case was then appealed to the Illinois Supreme Court.

¶ 7

While the *Reedy* case was pending, the Illinois General Assembly reenacted the truth-in-sentencing provision by passing Public Act 90-592, § 5 (eff. June 19, 1998) (deleting and recodifying the entire truth-in-sentencing provision originating from Public Act 89-404). In rendering its decision in *Reedy*, the supreme court affirmed the Second District but stated Public Act 90-592 validly reenacted the truth-in-sentencing law and applied to crimes committed after its effective date, June 19, 1998. *People v. Reedy*, 186 Ill. 2d 1, 17-18, 708 N.E.2d 1114, 1121-22, (1999).

¶ 8

B. Procedural History

¶ 9

In December 2012, Edwards filed a *pro se* complaint styled as a "Petition for Injunctive Relief." Edwards alleged DOC is improperly requiring him to serve 85% to 100% of

his court-imposed 35-year sentence under Public Act 89-404 and the truth-in-sentencing law violates his constitutional rights.

¶ 10 In April 2013, DOC moved under section 2-615 of the Code of Civil Procedure to dismiss the complaint for failing to state a claim. 735 ILCS 5/2-615 (West 2012). DOC acknowledged Public Act 89-404 was declared unconstitutional in *Reedy*, but argued the law was validly reenacted in Public Act 90-592, effective June 19, 1998, and Edwards' sentence appeared to relate to crimes committed after that date. DOC also argued Edwards did not state a claim for violation of his equal-protection rights because he provided no specific facts supporting the claim.

¶ 11 In May 2013, following a telephone hearing with Edwards, the trial court found "[Edwards'] [c]omplaint is without merit as [his] offense occurred after truth in sentencing was validly reenacted by [Public Act] 90-592" and granted DOC's motion to dismiss. Edwards filed a timely motion for rehearing, which the trial court denied. This appeal followed.

¶ 12 II. ANALYSIS

¶ 13 A. Standard of Review

¶ 14 "The constitutionality of a statute is a question of law, which we review *de novo*." *People v. Bell*, 327 Ill. App. 3d 238, 242, 764 N.E.2d 551, 554 (2002). Further, "[i]t is well established that all legislation is presumed to be constitutional and that the party challenging the legislation bears the heavy burden of establishing a clear constitutional violation." *People v. Ruiz*, 342 Ill. App. 3d 750, 762-63, 795 N.E.2d 912, 924 (2003).

¶ 15 B. Validity of Truth-In-Sentencing
Law as Applied To Edwards

¶ 16 Edwards argues (1) he is illegally serving 85% to 100% of his court imposed 35-year sentence pursuant to Public Act 89-404, (2) the truth-in-sentencing law violates the

proportionate-penalties clause, (3) the truth-in-sentencing law violates due process, and (4) the truth-in-sentencing law violates his equal-protection rights under the fourteenth amendment (U.S. Const., amend. XIV). We disagree.

¶ 17 Edwards has not shown he is serving 85% to 100% his sentence pursuant to Public Act 89-404. Edwards' argument Public Act 90-592 was ineffective to validly reenact the truth-in-sentencing law must fail under the supreme court's holding in *Reedy*. See *Reedy*, 186 Ill. 2d at 17, 708 N.E.2d at 1121 (holding "[p]ublic Act 90-592 recodified the truth-in-sentencing legislation in its entirety" and "truly served to cure the effect that the former act's invalidation had on the truth-in-sentencing law"). Public Act 90-592 applies the truth-in-sentencing provisions in a prospective manner starting on its effective date, June 19, 1998, and therefore, it did not apply to the plaintiffs in *Reedy*, who committed their offenses before that date. *Id.* at 17-18, 708 N.E.2d at 1121.

¶ 18 To obtain relief under *Reedy*, Edwards must show his offenses were committed before June 19, 1998. See *Id.* The record does not indicate when Edwards committed his offenses. As the petitioner, Edwards has the burden of alleging specific facts necessary to state a claim the truth-in-sentencing provision is unconstitutional. See *Ruiz*, 342 Ill. App. 3d at 762-63, 795 N.E.2d at 924. Edwards alleged no facts suggesting he committed his crimes before the truth-in-sentencing law was validly reenacted on June 19, 1998. After a hearing where Edwards participated by telephone, the trial court found these offenses occurred after the truth-in-sentencing provision was validly reenacted. As Edwards has not shown his offenses occurred before June 19, 1998, his claims based on *Reedy* fail. See *Reedy* at 17-18, 708 N.E.2d at 1121.

¶ 19 Edwards argues truth-in-sentencing violates the proportionate-penalties clause of the Illinois Constitution of 1970, which requires courts to consider all penalties "both according

to the seriousness of the offense and with the objective of restoring the offender to useful citizenship." Ill. Const. 1970, art. I, § 11. This argument was rejected in *People v. Harris*, 2012 IL App (1st) 092251, ¶ 25, 968 N.E.2d 90 (holding as the "truth-in-sentencing provision does not affect the sentencing range imposed for the offenses ***, but only the manner in which the sentence is carried out, we conclude that it does not violate the proportionate[-]penalties clause"), and *People v. Robinson*, 383 Ill. App. 3d 1065, 1071, 892 N.E.2d 39, 44 (2008) (holding while the truth-in-sentencing law may well affect the amount of the sentence ultimately served, it does not alter the imposed sentence). We agree and conclude truth-in-sentencing laws do not violate the proportionate-penalties clause.

¶ 20 Edwards provides no facts or argument to support his general due-process argument. Even if he had, this argument must also fail. The legislature has broad discretion to set penalties for defined offenses "subject to the constitutional requirement that a person's liberty cannot be deprived without due process of law." *People v. Gorgis*, 337 Ill. App. 3d 960, 975, 787 N.E.2d 329, 340 (2003). The legislature properly exercises this power when "the statute is reasonably designed to remedy evils that the legislature has determined to be a threat to the public health, safety, and general welfare." *Id.* at 975, 787 N.E.2d at 340-41. Truth-in-sentencing laws are constitutionally permissible because they are "reasonably designed to remedy the evil of [those convicted of the most serious offences] not serving their complete sentences." *Id.* at 975, 787 N.E.2d at 341. Edwards was convicted of aggravated sexual assault, a serious crime, and the imposition of truth-in-sentencing legislation for such a serious offense is a constitutionally valid exercise of the legislature's police power.

¶ 21 Edwards' complaint does not state a cause of action that the truth-in-sentencing law violates equal protection because it simply states the truth-in-sentencing law violates his

equal-protection right but does not indicate how. "The equal[-]protection clause of the fourteenth amendment (U.S. Const., amend. XIV) requires equality between groups of people who are similarly situated and does not require equality or proportionality of penalties for dissimilar conduct." *Id.* at 975, 787 N.E.2d at 340. As the truth-in-sentencing law treats all those convicted of the same crime in the same way, it does not violate the equal-protection clause. *Id.* at 975, 787 N.E.2d at 341.

¶ 22

III. CONCLUSION

¶ 23

For the reasons stated, we affirm the trial court's judgment.

¶ 24

Affirmed.