2016 IL App (4th) 150270-U

NO. 4-15-0270

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
April 14, 2016
Carla Bender
4th District Appellate
Court, IL

ANTHONY C. WILKERSON, Plaintiff-Appellant, v. SALVADORE A. GODINEZ, RANDY S. PFISTER, BILLIE W. GREER, and PATRICK HASTINGS, Defendants-Appellees.	)	Appeal from Circuit Court of Livingston County No. 14MR67 Honorable Jennifer H. Bauknecht, Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Justices Turner and Harris concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not err by granting defendants' motion to dismiss plaintiff's *mandamus* complaint where plaintiff's complaint was barred by the doctrine of *laches*.

¶ 2 Plaintiff, Anthony C. Wilkerson, an inmate in the Illinois Department of Corrections (DOC), appeals the trial court's dismissal of his *pro se* complaint for *mandamus*, wherein he sought to compel defendants, Salvadore A. Godinez, the director of DOC, Randy S. Pfister, acting warden, Billie W. Greer, administrative review board member, and Patrick Hastings, grievance officer, to restore his revoked good-conduct credits and release him from segregation. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On June 17, 2014, plaintiff filed a complaint for *mandamus* relief, alleging he was entitled to have his revoked good-conduct credits restored and be released from segregation due

to an unconstitutional section of the statute applied during his disciplinary proceedings. On September 10, 2014, defendants filed a motion to dismiss plaintiff's complaint pursuant to section 2-619.1 of the Code of Civil Procedure (735 ILCS 5/2-619.1 (West 2012)), claiming plaintiff's action was barred by the doctrine of *laches* and he failed to state a claim for *mandamus* relief. On March 20, 2015, the trial court conducted a hearing and, for the reasons stated in defendants' motion to dismiss, the court allowed the motion and dismissed plaintiff's complaint.

¶ 5 This appeal followed.

¶ 6 II. ANALYSIS

¶ 7 Plaintiff challenges the trial court's dismissal of his *mandamus* complaint. The State maintains the court correctly dismissed plaintiff's action because it was untimely and plaintiff did not allege facts showing a right to the relief sought.

¶ 8 "*Mandamus* is an extraordinary remedy used to compel a public official to perform a purely ministerial duty where no exercise of discretion is involved." *People ex rel. Alvarez v. Skryd*, 241 Ill. 2d 34, 38 (2011). To obtain *mandamus* relief, the petitioner must establish "a clear right to the relief requested, a clear duty of the public official to act, and clear authority in the public official to comply with the writ." *Alvarez*, 241 Ill. 2d at 39. A plaintiff must set forth every "material fact" necessary to prove his clear right to relief. *Neville v. Walker*, 376 Ill. App. 3d 1115, 1118 (2007). On appeal, the trial court's decision to grant a motion to dismiss a *mandamus* petition is subject to *de novo* review. *Neville*, 376 Ill. App. 3d at 1118.

¶ 9 In his *mandamus* complaint, plaintiff sought to compel restoration of his good-conduct credit and his release from segregation based upon void disciplinary proceedings. However, plaintiff does not allege these sanctions were imposed within the six months prior to the filing of his complaint. He challenges all of the charges and sanctions imposed against him

since 1997, referencing proceedings conducted as late as 2013, but nothing thereafter. Accordingly, plaintiff's complaint is barred by the doctrine of *laches*.

¶ 10 "The doctrine of *laches* is applied 'when a party's failure to timely assert a right has caused prejudice to the adverse party.' " *Ashley v. Pierson*, 339 Ill. App. 3d 733, 737 (2003). In 1906, our supreme court first held the doctrine of *laches* applied to petitions for writ of *certiorari*. See *City of Chicago v. Condell*, 224 Ill. 595, 598-99 (1906). In 1909, the First District applied the doctrine of *laches* to a *mandamus* action. See *People ex rel. King v. City of Chicago*, 147 Ill. App. 591, 593 (1909). Since *King*, it has become well settled that *laches* applies to complaints for *mandamus*. See *e.g.*, *People ex rel. Casey v. Health & Hospitals Governing Comm'n of Illinois*, 69 Ill. 2d 108, 115 (1977) (recognizing that *laches* applies to *mandamus* petitions). *Ashley*, 339 Ill. App. 3d at 737-39.

¶ 11 "Generally, a party asserting *laches* must prove two fundamental elements: (1) lack of due diligence by the party asserting a claim; and (2) prejudice to the party asserting *laches*." *Ashley*, 339 Ill. App. 3d at 739. As stated above, plaintiff failed to allege that any of the challenged disciplinary sanctions were imposed within six months of the filing of his complaint. Plaintiff asserted he was unaware Public Act 89-688 (eff. June 1, 1997), the statute upon which he bases his voidness argument, was found unconstitutional. However, as the State points out, plaintiff's ignorance of the law does not excuse a lack of due diligence in filing a complaint. *People v. Lander*, 215 Ill. 2d 577, 588 (2005).

¶ 12 As to the prejudice prong, this court has previously held prejudice is inherent where there exists a detriment or inconvenience to the public based on the plaintiff's delay in bringing an action. See *Ashley*, 339 Ill. App. 3d at 739. This court held as follows:

> "[S]uch detriment and inconvenience exists in cases where inmates file petitions for writ of *mandamus* more than six months after the completion of the original DOC disciplinary proceedings and no reasonable excuse exists for the delay. In so holding, we note that DOC houses over 42,000 adult inmates who have little disincentive to litigate over disciplinary proceedings. [Citations.] As this court stated in *Alicea v. Snyder*, 321 Ill. App. 3d 248, 254 *** (2001): 'DOC conducts a large number of disciplinary proceedings every year, and the administrative expense and burden of conducting reviews so long after the completion of the original proceedings would be substantial. Such an inquiry would result in extensive public detriment and inconvenience.' See *Caruth v. Quinley*, 333 Ill. App. 3d 94, 99 *** (2002) (an inmate's petition for *mandamus* must be brought within six months unless a reasonable explanation exists for the delay)." *Ashley*, 339 Ill. App. 3d at 739-40.

¶ 13 As a result of plaintiff's failure to meet the requirements of the *laches* doctrine in his complaint for *mandamus*, the trial court did not err in granting the State's motion to dismiss on this basis. Accordingly, we affirm the court's order dismissing plaintiff's complaint.

¶ 14 We note plaintiff argues his disciplinary proceedings were void and thus arguably could be attacked at any time. He argues Public Act 89-688 (eff. June 1, 1997), which amended, among other statutory provisions, section 3-8-7 of the Unified Code of Corrections (Corrections Code) (730 ILCS 5/3-8-7 (West 2012)) (providing DOC the authority to establish disciplinary procedures), was found unconstitutional in *People v. Foster*, 316 Ill. App. 3d 855, 860 (2000).

Plaintiff's argument that he is entitled to relief despite timeliness issues fails for two reasons. First, Illinois courts have applied the doctrine of *laches* to bar claims of a void judgment despite arguments that a claim may be brought at any time. See *James v. Frantz*, 21 Ill. 2d 377, 383 (1961); *Rodriguez v. Koschny*, 57 Ill. App. 3d 355, 361 (1978); *In re Adoption of Miller*, 106 Ill. App. 3d 1025, 1030 (1982).

¶ 15 Second, we disagree that plaintiff's disciplinary proceedings were void. That is, the prison disciplinary proceedings were not void simply because the version of section 3-8-7 of the Corrections Code in effect prior to the passage of Public Act 89-688 remained in effect. *People v. Carrera*, 203 Ill. 2d 1, 14-15 (2002). See *Knox v. Godinez*, 2012 IL App (4th) 110325, ¶¶ 20-21 (Any disciplinary actions conducted after July 22, 2003, when the new law took effect, were not affected by the unconstitutional amendment set forth in Public Act 89-688. Any disciplinary actions conducted between June 1, 1997, and July 21, 2003, when the amendments of Public Act 89-688 were in effect, did not cause disciplinary proceedings to be void. The unconstitutionality of Public Act 89-688 was based on a violation of the single-subject rule and had no effect on an inmate's due-process rights.). Accordingly, the trial court did not err by dismissing plaintiff's complaint for *mandamus*.

¶ 16 III. CONCLUSION

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

¶ 18 Affirmed.