2015 IL App (3d) 150096

Opinion filed October 29, 2015

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2015

CHARLES F P. BOCOCK,	)	Appeal from the Circuit Court
	)	of the 12th Judicial Circuit,
Plaintiff-Appellant,	)	Will County, Illinois,
	)	
v.	)	Appeal No. 3-15-0096
	)	Circuit No. 14-MR-1869
	)	
MICHAEL F. O'LEARY and BRIAN FINK,	)	Honorable
	)	Cory D. Lund,
Defendants-Appellees.	)	Judge, Presiding.

JUSTICE O'BRIEN delivered the judgment of the court, with opinion.
Justices Holdridge and Schmidt concurred in the judgment and opinion.

OPINION

¶ 1 Plaintiff, Charles F P. Bocock, brought a 21-count petition for *mandamus* against defendants, Michael F. O'Leary and Brian Fink, to enforce the provisions of the Illinois Department of Corrections County Jail Standards (county jail standards) (20 Ill. Adm. Code 701), which plaintiff alleged the Will County Detention Facility (detention facility) violated. The circuit court granted defendants' motion to dismiss and plaintiff appeals. We affirm.

¶ 2 FACTS

¶ 3 Plaintiff is currently detained at the detention facility awaiting trial. While detained, plaintiff brought a petition for *mandamus* against the detention facility warden, Michael O'Leary, and the detention facility deputy chief, Brian Fink, alleging various violations of the county jail standards. Plaintiff alleged that the *mandamus* petition was brought "in an attempt to rectify violations of the *** *County Jail Standards*" promulgated by the Illinois Department of Corrections (DOC).

¶ 4 According to plaintiff, the conditions at the detention facility violated the county jail standards for the following reasons: (1) failure to provide detainees with "bath size towels"; (2) failure to keep detention areas comfortably heated and cooled; (3) failure to provide shaving soap; (4) failure to provide barber and beautician services; (5) failure to provide sufficient quantity of food; (6) failing to serve meals at specified times; (7) failure to construct a preplanned meal menu; (8) failure to provide a diversified diet to inmates; (9) failure to provide an adequate supply of clean clothing; (10) failure to provide an unambiguous handbook of conduct constituting a penalty offense to detainees; (11) failure to provide detainees hearings before an impartial officer or committee; (12) failure to provide an area for interviews with an attorney arranged to ensure privacy; (13) failure to provide up-to-date informational and educational resources in the detainee library; (14) charging detainees excessive prices for commissary items; (15) failure to utilize profits from the commissary for the welfare of detainees, and failure to document and account for such profits; (16) providing detainees with notice of disciplinary charges less than 14 hours before a hearing; (17) imposing penalties upon detainees prior to disciplinary hearings; (18) imposing segregation upon detainees without considering lesser penalties; (19) failure to remove all references to detainees' charges from their

files; (20) failure to plan or schedule recreation or leisure time activities; and (21) failure to deliver mail promptly to detainees.

¶ 5 In response, defendants filed a section 2-619 motion to dismiss (735 ILCS 5/2-619(a)(2) (West 2014)) plaintiff's *mandamus* petition. In the motion, defendants argued plaintiff lacked standing to bring his petition for *mandamus* because the statute granting the DOC the authority to promulgate the county jail standards (730 ILCS 5/3-15-2 (West 2014)) provides the Director of the DOC with the exclusive right to petition a court to enforce the county jail standards.

¶ 6 Plaintiff did not respond to defendants' motion to dismiss, but did file a motion to strike defendants' motion to dismiss. Plaintiff argued defendants were the proper party to name in his *mandamus* petition and not the Director of the DOC, because the Director's statutory obligation to inspect jails for compliance with the county jail standards was discretionary rather than mandatory. Thus, because the Director was not obligated to inspect the facility, the Director was not the proper defendant to name in his *mandamus* petition. According to plaintiff, because the county jail standards themselves included mandatory language, defendants were the proper party for his *mandamus* petition.

¶ 7 After a hearing on the merits of the parties' motions, the circuit court granted defendants' motion to dismiss, denied plaintiff's motion to strike, and dismissed plaintiff's complaint. Plaintiff timely filed a notice of appeal.

¶ 8 ANALYSIS

¶ 9 On appeal, plaintiff argues the circuit court erred by granting defendants' motion to dismiss. Specifically, plaintiff contends that "[d]efendants misapplied the law when arguing that they were not subject to the *County Jail Standards*" and "[d]efendants misquoted the law when arguing that they were not the correct parties to the suit." We disagree. Only the Director of the

DOC is statutorily authorized to petition a court to order compliance with the county jail standards. Thus, we find plaintiff lacks standing to bring his *mandamus* petition.

> "Generally, the doctrine of standing is designed to 'preclude persons who have no interest in a controversy from bringing suit.' [Citation.] However, the doctrine of standing also precludes a plaintiff from bringing a private cause of action based on a statute unless the statute expressly confers standing on an individual or class to do so. [Citation] (rejecting the plaintiff's attempt to expand the doctrine of standing to include 'member[s] of [a] class designed to be protected by the statute, or one for whose benefit the statute was enacted, and to whom a duty of compliance is owed')." *Jackson v. Randle*, 2011 IL App (4th) 100790, ¶ 14 (quoting *Glisson v. City of Marion*, 188 Ill. 2d 211, 221-22 (1999)).

We review orders dismissing a petition for *mandamus* and orders granting a defendant's motion to dismiss pursuant to section 2-619(a)(9) *de novo*. *Lacey v. Village of Palatine*, 232 Ill. 2d 349, 359 (2009).

¶ 10 In the instant case, plaintiff sought to enforce the county jail standards promulgated by the DOC. A careful review of the regulations plaintiff sought to enforce shows that none of the regulations create a private cause of action to an inmate seeking to remedy a county jail's alleged noncompliance with the regulations. The statute provides, in pertinent part:

> "(a) The [DOC] shall establish for the operation of county and municipal jails and houses of correction, minimum standards for the physical condition of such institutions and for the treatment of inmates with respect to their health and safety and the security of the community.
>
> * * *

(b) At least once each year, the [DOC] may inspect each adult facility for compliance with the standards established and the results of such inspection shall be made available by the Department for public inspection. At least once each year, the Department of Juvenile Justice shall inspect each county juvenile detention and shelter care facility for compliance with the standards established, and the Department of Juvenile Justice shall make the results of such inspections available for public inspection. If any detention, shelter care or correctional facility does not comply with the standards established, the Director of Corrections or the Director of Juvenile Justice, as the case may be, shall give notice to the county board and the sheriff or the corporate authorities of the municipality, as the case may be, of such noncompliance, specifying the particular standards that have not been met by such facility. If the facility is not in compliance with such standards when six months have elapsed from the giving of such notice, the *Director of Corrections* or the Director of Juvenile Justice, as the case may be, may petition the appropriate court for an order requiring such facility to comply with the standards established by the Department or for other appropriate relief." (Emphasis added.) 730 ILCS 5/3-15-2 (West 2014).

¶ 11 The statutory language is clear as it explicitly grants the Director of the DOC with the exclusive right to petition an appropriate court to remedy a facility's noncompliance with the regulations. *People v. Jones*, 223 Ill. 2d 569, 581 (2006) (the statute's language is the best indicator of legislative intent and it should be given its plain and ordinary meaning). Further, the statutory language is devoid of any language providing plaintiff a private right to petition a court to enforce compliance with the county jail standards. Therefore, without statutory authority

creating a private right, plaintiff lacks standing to bring an action to enforce the county jail standards. See *People v. O'Connell*, 227 Ill. 2d 31, 37 (2007) (noting where a statute lists things to which it refers, an inference rises that all omissions should be understood as exclusions).

¶ 12 In reaching our conclusion, we reject plaintiff's contention that the statute "did not need to grant a private right to enforce county jail standards, because *mandamus* relief is already statutorily authorized where an official fails to perform his duties as required by law–a separate statutory right for a detainee to enforce county jail standards is not required." Plaintiff's argument is misplaced because it presumes he is entitled to *mandamus* relief without considering the requirements for *mandamus* to issue. See *Rodriguez v. Illinois Prisoner Review Board*, 376 Ill. App. 3d 429, 433 (2007) (*mandamus* is an extraordinary remedy that is granted to enforce the performance of a public officer's official nondiscretionary duties as a matter of right).

¶ 13 For *mandamus* to issue, a plaintiff must establish material facts that demonstrate: (1) his clear right to the requested relief; (2) a clear duty on the defendant to act; and (3) clear authority existing in the defendant to comply with an order granting *mandamus* relief. *Rodriguez*, 376 Ill. App. 3d at 433-34. Plaintiff's claim fails because the county jail standards do not create a clear right to the relief plaintiff requests.

¶ 14 The county jail standards cited by plaintiff "were designed to provide guidance to prison officials in the administration of prisons" and "were *never* intended to confer rights on inmates or serve as a basis for constitutional claims." (Emphasis in original.) *Ashley v. Snyder*, 316 Ill. App. 3d 1252, 1258 (2000); see also *Dupree v. Hardy*, 2011 IL App (4th) 100351. Significantly, "[t]he Constitution does not require that prisons be comfortable [citation], only that they supply basic human needs [citation]. Inmates thus have a constitutional right to adequate shelter, food, drinking water, clothing, sanitation, medical care, and personal safety. [Citations.] Prisoners

also have a reasonable right of access to courts and a right to a reasonable opportunity to exercise religious freedom under the first amendment. [Citation.] Beyond these, prisoners possess no other rights, only privileges." *Ashley*, 316 Ill. App. 3d at 1258-59.

¶ 15 Here, plaintiff does not claim a constitutional deprivation, but merely alleges that the conditions at the detention facility violate the county jail standards. As detailed above, only the Director of the DOC may petition a court to address these county jail standards. 730 ILCS 5/3-15-2 (West 2014). Therefore, we find plaintiff cannot establish an essential requirement for *mandamus* to issue. Because a plaintiff seeking *mandamus* relief must establish all three of the above requirements (see *Mason v. Snyder*, 332 Ill. App. 3d 834, 839 (2002)), and because plaintiff here cannot establish a clear right to the requested relief, we need not consider the two remaining requirements for *mandamus* to issue.

¶ 16 CONCLUSION

¶ 17 The judgment of the circuit court of Will County is affirmed

¶ 18 Affirmed.