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2024 IL App (3d) 220237-U

Order filed September 25, 2024

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2024

LAWRENCE ADAMCZYK,)	Appeal from the Circuit Court
)	of the 18th Judicial Circuit,
Plaintiff-Appellant,)	Du Page County, Illinois.
)	
v.)	
)	Appeal No. 3-22-0237
ILLINOIS DEPARTMENT OF)	Circuit No. 21-CH-259
CORRECTIONS; GREG MORGENTHALER,)	
Warden, Big Muddy Correctional Center and)	
ROB JEFFREYS, Director of the Illinois)	
Department of Corrections,)	The Honorable
)	Paul M. Fullerton,
Defendants-Appellees.)	Judge, presiding.

PRESIDING JUSTICE McDADE delivered the judgment of the court.
Justices Davenport and Hettel concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court did not err when it granted the defendants' motion to dismiss the civilly committed plaintiff's complaint for various alleged violations of his rights as a ward under the Sexually Dangerous Persons Act.

¶ 2 The plaintiff, Lawrence Adamczyk, who is a civilly committed sexually dangerous person, sued the defendants, the Illinois Department of Corrections (DOC), DOC Warden Greg Morgenthaler, and DOC director Rob Jeffreys, alleging numerous rights-related violations. The

defendants filed a motion to dismiss, which the circuit court granted after a hearing. On appeal, Adamczyk primarily argues that the court erred when it granted the defendants’ motion to dismiss. We affirm.

¶ 3

I. BACKGROUND

¶ 4

In July 2021, Adamczyk filed a *pro se* two-count civil complaint against the defendants. The complaint, twice amended by January 2022, contained 12 counts. Count I alleged a breach of fiduciary duty by failing to treat Adamczyk as a ward under the Sexually Dangerous Persons Act and instead treating him “like the criminally convicted punished by Involuntary Servitude.” Count II alleged a violation of 22 U.S.C. § 7101 in that the defendants were subjecting Adamczyk to involuntary servitude. Count III alleged a violation of a criminal statute prohibiting trafficking in persons and involuntary servitude. Count IV alleged unjust enrichment by failing to spend money to properly care for him. Count V alleged false imprisonment in that the defendants had no statutory authority to detain him. Count VI alleged a “loss of means to support” in that the defendants did not offer employment to Adamczyk. Count VII alleged a public nuisance in that the cell in which Adamczyk was housed constituted a health hazard and safety risk. Count VIII alleged a violation of the thirteenth amendment to the United States Constitution in that the defendants were subjecting Adamczyk to indentured servitude. Count IX alleged a violation of article I, section 19 of the Illinois Constitution (Ill. Const. 1970, art. I, § 19) in that the defendants discriminated against Adamczyk, who had been diagnosed with a mental disability, by failing to offer him employment or residential housing. Count X alleged a violation of article XI, section 2 of the Illinois Constitution (Ill. Const. 1970, art. XI, § 2) in that the defendants were subjecting Adamczyk to “extremely unhealthy” living conditions. Count XI alleged a violation of article I, section 23 of the Illinois Constitution (Ill. Const. 1970, art. I, § 23) in that the defendants were

depriving Adamczyk of his “Blessings of Liberty.” Count XII alleged a violation of 42 U.S.C. § 1982 in that the defendants were depriving Adamczyk of his equal rights “to contracts and property” by preventing him from buying from outside vendors.

¶ 5 In his prayer for relief, Adamczyk requested only monetary damages.

¶ 6 Shortly after he filed his initial complaint, Adamczyk filed a motion seeking a temporary restraining order (TRO) to enjoin the DOC from making him “pay for legal postage and copies.” The request claimed that Adamczyk’s status as a ward under the Sexually Dangerous Persons Act meant that the DOC was required “to pay for all necessary fees incurred by me in an application for recovery hearing.” Apparently, the circuit court never addressed that motion, as Adamczyk filed a document in January 2022 that requested the court to rule on his August 2021 motion for a TRO. The record does not indicate that the circuit court ever ruled on the motion after the January 2022 request either.

¶ 7 In February 2022, the defendants filed a combined motion to dismiss the second amended complaint pursuant to section 2-619.1 of the Code of Civil Procedure (Code) (735 ILCS 5/2-619.1 (West 2022)). Generally, the motion to dismiss alleged that pursuant to section 2-615 of the Code (*id.* § 2-615), Adamczyk’s complaint failed to allege facts sufficient to state claims and/or alleged claims that were not cognizable causes of action. Additionally, the motion to dismiss alleged that pursuant to section 2-619 of the Code (*id.* § 2-619), sovereign immunity operated to bar all the complaint’s counts.

¶ 8 During further pretrial matters, Adamczyk attempted to file a third amended complaint without first obtaining leave of court. The circuit court *sua sponte* struck Adamczyk’s third amended complaint. Later, Adamczyk withdrew Counts II, VIII, and XII of his complaint.

¶ 9 In May 2022, the circuit court held a hearing on the defendants’ combined motion to dismiss the second amended complaint. No transcript from that hearing appears in the record on appeal, although Adamczyk has included in his appellant’s appendix what appears to be the transcript from that hearing. The court’s written order granting the motion to dismiss merely states that “[f]or the reasons set forth in the record, Defendants’ motion to dismiss pursuant [to] 735 ILCS 5/2-619.1 is GRANTED with prejudice.”

¶ 10 Adamczyk appealed. We note that he has explicitly abandoned Counts X and XI in his appellant’s brief. Accordingly, this appeal involves seven remaining counts: I, III, IV, V, VI, VII, and IX.

¶ 11 II. ANALYSIS

¶ 12 On appeal, Adamczyk primarily¹ argues that the circuit court erred when it dismissed his complaint with prejudice. Among other things, he argues that his complaint contained adequate facts to survive the defendants’ motion to dismiss and that sovereign immunity did not apply to bar his action.

¶ 13 Initially, we note that Adamczyk has not filed a report of proceedings with the record on appeal.

“[A]n appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error, and in the absence of such a record on appeal, it will be presumed that the order entered by the trial court was in conformity with law and had a

¹ We note that in his issue statement, Adamczyk alludes to a claim that the circuit court erred when it denied his third attempt to amend his complaint. However, Adamczyk provides no supporting argument for that point and has therefore forfeited it. See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) (stating that “[p]oints not argued are forfeited and shall not be raised in the reply brief, in oral argument, or on petition for rehearing”).

sufficient factual basis. Any doubts which may arise from the incompleteness of the record will be resolved against the appellant.” *Foutch v. O’Bryant*, 99 Ill. 2d 289, 391-92 (1984).

We note that the circuit court’s dismissal order stated that the defendants’ motion to dismiss was granted “[f]or the reasons set forth in the record.” Absent a transcript from the hearing on the motion to dismiss, we do not know the reasons why the circuit court granted the motion to dismiss.

¶ 14 It also must be noted that Adamczyk has included what appears to be the transcript from the hearing in his appendix on appeal. However, that document is not properly before this court. See Ill. S. Ct. Rs. 321 (eff. Oct. 1, 2021) (requiring any report of proceedings from the circuit court to be filed with the record on appeal), 323 (eff. July 1, 2017) (containing the requirements for preparing, certifying, and filing the report of proceedings on appeal), 342 (eff. Oct. 1, 2019) (requiring that an appellant’s appendix contain only materials *from the record*); see also *Oruta v. B.E.W. and Continental*, 2016 IL App (1st) 152735, ¶ 32 (citing Rule 342 and holding that “if the materials are not taken from the record, they may not generally be placed before the appellate court in an appendix and will be disregarded”). Accordingly, we decline to consider the apparent transcript that Adamczyk has included in his appellant’s appendix.

¶ 15 However, the failure of Adamczyk to properly file a report of proceedings on appeal in this case does not prevent us from reviewing the merits of his arguments. This appeal is from the circuit court’s order that granted a motion to dismiss brought pursuant to sections 2-615 and 2-619 of the Code. Our review of such an order is *de novo*. *Patrick Engineering, Inc. v. City of Naperville*, 2012 IL 113148, ¶ 31. Thus, the reasons why the circuit court granted the motion are immaterial to this appeal. See *Muhammad v. Abott Laboratories, Inc.*, 2022 IL App (1st) 210478, ¶ 22 (holding that “[d]e novo review means we consider the motion anew and perform the same analysis that a trial court would”); see also, *e.g.*, *Door Properties, LLC v. Nahlawi*, 2020 IL App (1st) 173163, ¶ 25

(holding that when a reviewing court engages in *de novo* review, no deference is owed to the circuit court’s ruling). Accordingly, we will consider the merits of Adamczyk’s appeal despite the lack of a transcript from the hearing at which the circuit court granted the defendants’ motion to dismiss.

¶ 16 If the circuit court lacks subject matter jurisdiction, an action is subject to involuntary dismissal pursuant to section 2-619(a)(1) of the Code. 735 ILCS 5/2-619(a)(1) (West 2022). Whether sovereign immunity applies to bar an action is a question of subject matter jurisdiction. *Leetaru v. Board of Trustees of the University of Illinois*, 2015 IL 117485, ¶¶ 41-42.

¶ 17 Article XIII, section 4 of the Illinois Constitution of 1970 abolished sovereign immunity but authorized the legislature to reinstate it. Ill. Const. 1970, art. XIII, § 4. In the State Lawsuit Immunity Act (745 ILCS 5/0.01 to 1.5 (West 2022)), the legislature restored sovereign immunity subject to certain exceptions: “[e]xcept as provided in the Illinois Public Labor Relations Act, the Court of Claims Act, the State Officials and Employees Ethics Act, and Section 1.5 of this Act, the State of Illinois shall not be made a defendant or party in any court.” *Id.* § 1. The only relevant exception in this case is the Court of Claims Act.

¶ 18 Section 8 of the Court of Claims Act (705 ILCS 505/8 (West 2022)) provides that the Court of Claims “shall have exclusive jurisdiction to hear and determine” certain claims against the State, including, in relevant part, “[a]ll claims against the State founded upon any law of the State of Illinois” (*id.* § 8(a)) and “[a]ll claims against the State for damages in cases sounding in tort, if a like cause of action would lie against a private person or corporation in a civil suit” (*id.* § 8(d)).

¶ 19 In this case, Adamczyk named three defendants: the DOC, the DOC’s warden, and the DOC’s director. There is no question that the DOC is a State agency. See, *e.g.*, 730 ILCS 5/3-2-5(a) (West 2022). Further, the question of whether Adamczyk can maintain his action against the DOC’s warden and director in the circuit court is easily answered.

¶ 20 “Whether an action is in fact one against the State and hence one that must be brought in the Court of Claims depends on the issues involved and the relief sought.” *Leetaru*, 2015 IL 117485 ¶ 45. Formal identification of the parties is not dispositive in determining whether an action is one against the State. *Id.* ¶ 44. A plaintiff may not avoid sovereign immunity’s bar by naming State employees or agents if the action is in reality against the State. *Id.* ¶ 45. “Sovereign immunity affords no protection, however, when it is alleged that the State’s agent acted in violation of statutory or constitutional law or in excess of his authority, and in those instances an action may be brought in circuit court.” *Healy v. Vaupel*, 133 Ill. 2d 295, 308 (1990). This exception, typically known as the “officer suit exception,” only applies when the complaint seeks “to prospectively enjoin such unlawful conduct”—*i.e.*, when a plaintiff seeks injunctive relief. *Parmar*, 2018 IL 122265, ¶ 22. Here, Adamczyk’s complaint sought only monetary relief. Moreover, nothing in the complaint’s remaining seven counts alleges that the DOC’s warden and director engaged in anything other than their official duties. Thus, the “officer suit exception” does not apply; Adamczyk’s action is solely against the State.

¶ 21 As previously noted, there are seven remaining counts from Adamczyk’s complaint that are at issue in this appeal. Six of them—counts I (breach of fiduciary duty under the Sexually Dangerous Persons Act), III (violation of a criminal statute prohibiting trafficking in persons and involuntary servitude), IV (unjust enrichment), V (false imprisonment), VI (“loss of means to support” through a denial of employment), and VII (public nuisance)—are all claims against the State over which the Court of Claims has exclusive jurisdiction. See 705 ILCS 505/8 (West 2022). Accordingly, the circuit court lacked subject matter jurisdiction over those claims. See *Meyer v. Department of Public Aid*, 392 Ill. App. 3d 31, 35 (2009) (holding that the circuit court lacked

subject matter jurisdiction over a plaintiff’s claim against a State agency that sought only monetary relief).

¶ 22 The seventh remaining count, count IX, must be addressed separately from the other six counts because it is based on a constitutional issue. The Court of Claims does not have jurisdiction to hear claims based on federal or state constitutional issues (*Bennett v. State*, 72 Ill. Ct. Cl. 141, 142 (2019)); accordingly, the Court of Claims does not have jurisdiction over Count IX.

¶ 23 Count IX alleged a violation of article I, section 19 of the Illinois Constitution in that the defendants discriminated against Adamczyk, who had been diagnosed with a mental disability, by failing to offer him employment or residential housing. Article I, section 19 of the Illinois Constitution provides that “[a]ll persons with a physical or mental handicap shall be free from discrimination in the sale or rental of property and shall be free from discrimination unrelated to ability in the hiring and promotion practices of any employer.” Ill. Const. 1970, art. I, § 19. The Illinois Human Rights Act is the vehicle by which individuals can seek to enforce their rights under article I, § 19 of the Illinois Constitution. 775 ILCS 5/1-102(F) (West 2022). However, prior to bringing a civil action in Illinois courts based on an alleged violation of article I, section 19 of the Illinois Constitution, an individual must exhaust administrative remedies, which involves filing a charge with the Department of Human Rights and seeking review of that decision with the Illinois Human Rights Commission. See *Metzler v. Katherine Shaw Bethea Hospital*, 2017 IL App (2d) 170001, ¶ 4; 775 ILCS 5/7A-101, 7A-102, 8-111 (West 2022); see also *Beaulieu v. Ashford University*, 529 F. Supp. 3d 834, 851 (N.D. Ill. 2021) (holding that “[t]o bring a claim in court under the IHRA, a plaintiff must first pursue and exhaust his administrative remedies”).

¶ 24 Even assuming that article I, § 19 applies to Adamczyk, there is nothing in the record to show that he attempted to exhaust his administrative remedies before filing Count IX in the circuit

court. Accordingly, Count IX was properly dismissed. See *id.* (holding that “[f]ailing to comply with the exhaustion requirements results in dismissal of an IHRA claim”).

¶ 25 Lastly, we note that Adamczyk also argues that the circuit court erred by “not accepting TRO/injunction for payment of professional services copies/postage/books for Adamczyk to access the courts.” This argument refers to a motion he filed in the circuit court in August 2021 that sought to enjoin the DOC from making him pay for “legal postage and copies.” He claimed that because he was a ward of the State under the Sexually Dangerous Persons Act, the DOC was required to pay for any fees he incurred “in an application for recovery hearing.” In January 2022, Adamczyk filed a document in the circuit court that, among other things, requested the court to hear his August 2021 TRO request. Nothing in the record on appeal indicates that before or after the January 2022 request a ruling was ever issued on Adamczyk’s motion.

¶ 26 “[A] movant has the responsibility to obtain a ruling on his motion if he is to avoid forfeiture on appeal.” *Hernandez v. Pritikin*, 2012 IL 113054, ¶ 41. Because Adamczyk failed to obtain a ruling on his August 2021 motion, he has forfeited any argument related to that motion on appeal.

¶ 27 For the foregoing reasons, we hold that the circuit court did not err in granting the defendants’ motion to dismiss.

¶ 28 III. CONCLUSION

¶ 29 The judgment of the circuit court of Du Page County is affirmed.

¶ 30 Affirmed.