

Randolph County's *sua sponte* dismissal of his complaint, and order the defendant to release the plaintiff from custody. For the reasons that follow, we affirm.

¶ 3

BACKGROUND

¶ 4 On October 29, 1990, the plaintiff was charged by information with two counts of first-degree murder and one count of mob action in La Salle County. On that same day, the court held a first appearance hearing. At the hearing, the State moved *instanter* to amend the information to read "Walter L. Merritte" rather than "Walter K. Merritte," which was the name the information originally had listed for the plaintiff. The court allowed the State to correct the information on its face. The plaintiff was present in court and did not have an attorney at the time. The plaintiff was handed copies of counts I, II, and III of the criminal information. When the court asked the plaintiff whether he had an attorney, the plaintiff said that he was planning to obtain his own counsel. Thereafter, an appearance-with-counsel hearing was set for November 1, 1990, and bond was set. At the hearing on November 1, the plaintiff was present without counsel. He told the court that he needed another week to obtain counsel. The matter was continued to November 19, 1990, for arraignment. At the arraignment hearing on November 19, 1990, the plaintiff was present with counsel. The State tendered to defense counsel a copy of the three-count indictment. A jury trial was set.

¶ 5 Following the jury trial, the defendant was found guilty of first-degree murder. He was sentenced to natural life imprisonment.

¶ 6 On February 15, 2013, the plaintiff filed a *pro se* "motion to vacate judgment" in the circuit court of Randolph County. In the motion, the plaintiff asked the court to declare his criminal conviction void, arguing that the trial court lacked the jurisdiction to convict him because the State had failed to properly serve him with an indictment. The plaintiff argued in the alternative that he did not have appointed counsel present when he was arraigned on an amended indictment, and that the trial judge was biased, both of which should have

rendered the judgment void.

¶ 7 On February 22, 2013, the circuit court entered an order, *sua sponte*, dismissing the plaintiff's motion. Noting that the plaintiff did not indicate under what law he was filing his "motion to vacate judgment," the court determined that the plaintiff's motion was a complaint for *habeas corpus* relief. It reasoned that the plaintiff's motion was a complaint for *habeas corpus* relief for two reasons. First, the plaintiff was seeking relief in the county of his incarceration, rather than where he was convicted. The court stated that a petition for postconviction relief (725 ILCS 5/122-2 (West 2012)) or a petition for relief from judgment (735 ILCS 5/2-1401 (West 2012)) must both be filed in the county of the original proceedings, namely, La Salle County. Second, the plaintiff claimed that the court lacked jurisdiction, which is a claim typically brought under a *habeas corpus* complaint (735 ILCS 5/10-124 (West 2012)). The court found that the plaintiff's allegations were insufficient on their face to warrant any relief available pursuant to section 10-124 of the Code of Civil Procedure (735 ILCS 5/10-124 (West 2012)) and dismissed the complaint *sua sponte*. From that dismissal, the plaintiff appeals.

¶ 8

ANALYSIS

¶ 9 In his appeal, the plaintiff argues that the circuit court erred when it dismissed his "motion to vacate judgment," because the circuit court of La Salle County lacked the jurisdiction to enter judgment against the plaintiff when the State failed to properly serve him with the indictment. In the alternative, the plaintiff asserts that he did not have appointed counsel when he was arraigned on the amended indictment and that the trial judge was biased.

¶ 10 First, we agree with the circuit court's determination that the plaintiff's motion is best characterized as a complaint for *habeas corpus* relief. *Habeas corpus* complaints argue that the judgment of the circuit court was void or that some other postconviction matter requires

the immediate release of the inmate from custody. *Faircloth v. Sternes*, 367 Ill. App. 3d 123, 125 (2006). In this case, the plaintiff is attacking the judgment of the circuit court as void, arguing that the court lacked jurisdiction. Further, the plaintiff's requested relief is his immediate release from prison, which is the remedy provided by *habeas corpus*. Thus, the circuit court correctly determined that the plaintiff's complaint was a *habeas corpus* complaint.

¶ 11 We review *de novo* the circuit court's dismissal of a *habeas corpus* complaint. See *Hennings v. Chandler*, 229 Ill. 2d 18, 24 (2008). The *habeas corpus* remedy for a prisoner is the prisoner's immediate release from prison. *Faircloth*, 367 Ill. App. 3d at 125. *Habeas corpus* relief is available only if (1) the circuit court lacked subject matter or personal jurisdiction, or (2) some subsequent event occurs that entitles the inmate to immediate release from custody. *Id.* Here, the plaintiff argues that the circuit court lacked jurisdiction to convict him because the record contains no proof that the State's Attorney gave him proper notice of the October 29, 1990, initial appearance. However, this argument simply is not accurate. The plaintiff received copies of his criminal information in open court and acknowledged receipt of the information at the same time. The court fully complied with paragraph 109-1 of the Code of Criminal Procedure of 1963 (Ill. Rev. Stat. 1989, ch. 38, ¶ 109-1), specifically, that a person arrested receive a prompt determination of probable cause.

¶ 12 The Illinois Constitution provides that the circuit courts have subject-matter jurisdiction over all justiciable matters. Ill. Const. 1970, art. VI, § 9; see *People v. Davis*, 344 Ill. App. 3d 400, 405 (2003). The court had subject-matter jurisdiction because the criminal charges alleged the existence of a justiciable matter under section 9-1(a)(1) of the Criminal Code of 1961 (Ill. Rev. Stat. 1989, ch. 38, ¶ 9-1(a)(1)); see *People v. Baum*, 2012 IL App (4th) 120285, ¶ 13). A circuit court obtains personal jurisdiction over a criminal

defendant when the defendant appears personally before the court. *People v. Speed*, 318 Ill. App. 3d 910, 932 (2001). When the plaintiff appeared in front of the court on October 29, 1990, the court obtained personal jurisdiction over the plaintiff. The plaintiff has made no claim that a postconviction matter has arisen that would require his immediate release from prison, and we see no such matter in the record. Therefore, we find that the circuit court did not lack jurisdiction to enter judgment against the defendant, and thus *habeas corpus* relief is not available to the plaintiff.

¶ 13 The plaintiff argues in the alternative that he was not represented by counsel at his initial appearance and that the trial judge was biased. The plaintiff fails to argue why he believes the trial judge was biased, and we find no instance within the record that would indicate any bias on the part of the judge. Thus, we find that the plaintiff's claim that the trial judge was biased is meritless. With respect to the plaintiff's claim that he was not represented, at his initial appearance, the plaintiff was asked whether he wanted counsel appointed to him. The plaintiff responded that he was in the process of obtaining his own counsel. The plaintiff was not formally arraigned until he had counsel present with him. Regardless, "[h]abeas corpus relief is limited solely to the grounds specified in the [Habeas Corpus] Act and may not be used to review proceedings that do not exhibit one of the defects set forth therein, even though the alleged error involves a denial of constitutional rights." *Taylor v. Cowan*, 339 Ill. App. 3d 406, 409 (2003).

¶ 14 The plaintiff has failed to show that the circuit court lacked jurisdiction to render judgment or that some postconviction event entitles him to immediate release from prison.

¶ 15 **CONCLUSION**

¶ 16 For the foregoing reasons, the judgment of the circuit court of Randolph County is affirmed.

¶ 17 Affirmed.