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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

| | | |
|--------------------------------|---|-------------------------------|
| DARWIN L. BAKER, |) | Appeal from the Circuit Court |
| |) | of McHenry County. |
| Plaintiff-Appellant, |) | |
| |) | |
| v. |) | No. 16-CF-26 |
| |) | |
| JEFF DENNISON, Warden, Shawnee |) | |
| Correctional Center, |) | Honorable |
| |) | Sharon L. Prather, |
| Defendant-Appellee. |) | Judge, Presiding. |

PRESIDING JUSTICE BIRKETT delivered the judgment of the court.
Justices Zenoff and Burke concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court properly denied plaintiff *habeas corpus* relief, as he was serving his term of MSR.

¶ 2 Plaintiff, Darwin L. Baker, was the defendant in McHenry County case No. 16-CF-26, in which he pleaded guilty to one count of domestic battery (subsequent offense) (720 ILCS 5/12-3.2(a)(1) (West 2016)). In June 2018, he filed a complaint for *habeas corpus*, naming as the defendant “Warden Dennison”—Warden Jeff Dennison of the Shawnee Correctional Center in Johnson County—and alleging that, because his three-year term of imprisonment had run, his imprisonment was illegal. (Baker filed the complaint in the circuit court of McHenry County

under case No. 16-CF-26.) The court dismissed the complaint, ruling that, because Baker’s full term of custody—including the four-year term of mandatory supervised release (MSR)—is seven years, he was not entitled to *habeas corpus* relief. We agree that *habeas corpus* relief is unavailable, and we thus affirm.

¶ 3

I. BACKGROUND

¶ 4 On June 13, 2016, Baker pleaded guilty to one count of domestic battery (subsequent offense) pursuant to an agreement in which the State agreed to recommend no more than three years’ imprisonment. The court sentenced Baker to three years’ imprisonment and one year’s MSR. On the State’s motion, the court later amended the sentence to three years’ imprisonment and four years’ MSR to comply with section 5-8-1(d)(6) of the Unified Code of Corrections (Unified Code) (730 ILCS 5/5-8-1(d)(6) (West 2016)). Baker received credit for incarceration from January 17, 2016, to August 17, 2016.

¶ 5 Baker filed the *habeas corpus* complaint at issue in this appeal against Dennison in McHenry County on June 5, 2018. Baker alleged that his release date from the three-year term of imprisonment should have been July 17, 2017. However, because he had no address to which the Department of Corrections (Department) could release him and because no space was available for him in any halfway house, the Department declined to release him. He asserted that his sentence had thus become illegal.

¶ 6 The court dismissed the complaint in a July 13, 2018, order. Citing *Barney v. Prisoner Review Board*, 184 Ill. 2d 428, 430-31 (1998), it concluded that, because Baker’s full term of custody was seven years, he was not entitled to *habeas corpus* relief:

“While [Baker] may have served this three year sentence, he also was sentenced to four years [MSR]. Since a prisoner on [MSR] remains in the custody of the Department ***,

the time during which he can be legally detained does not expire until the term of [MSR] expires; therefore habeas corpus relief is not available to [Baker].”

Baker filed a timely notice of appeal.

¶ 7

II. ANALYSIS

¶ 8 On appeal, Baker asserts that his continued detention violates the terms of his plea agreement and that he is being incarcerated in violation of the sentencing order. The State responds that Baker’s claim does not fall within the “extremely narrow” scope of the conditions for which *habeas corpus* relief is available. Citing *Barney*, it argues that “[i]ndividuals on MSR remain within the legal custody of the *** Department *** and, thus, have no viable claim for habeas relief.”

¶ 9 We agree with the State. Under clear Illinois Supreme Court authority, *habeas corpus* relief is unavailable to persons who are still within the terms of their MSR:

“ ‘Since a prisoner on [MSR] remains in the custody of the Department ***, the time during which he can be legally detained does not expire until the term of [MSR] expires; therefore, *habeas corpus* relief is not available to a petitioner *** who is serving a term of [MSR].’ ” *Barney*, 184 Ill. 2d at 431 (quoting *Newsome v. Hughes*, 131 Ill. App. 3d 872, 875 (1985)).

¶ 10 Baker’s claim that his treatment does not give him the benefit of his plea agreement is not a claim for which *habeas corpus* relief is available. “It is well established that a writ of *habeas corpus* is available only to obtain the release of a prisoner who has been incarcerated under a judgment of a court which lacked jurisdiction of the subject matter or the person of the petitioner, or where there has been some occurrence subsequent to the prisoner’s conviction which entitled him to release.” *Barney*, 184 Ill. 2d at 430. A claim that incarceration is

inconsistent with a *plea agreement* does not fall within that scope. Claims of violations of plea agreements usually may be addressed in petitions under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2016)). *People v. Whitfield*, 217 Ill. 2d 177, 189 (2005).

¶ 11 We express no opinion as to whether postconviction relief would be available to Baker, but we note that this is a case in which the trial court’s power to recharacterize a different pleading as a postconviction petition might perhaps have been productively used. See, *e.g.*, *People v. Shellstrom*, 216 Ill. 2d 45, 51 (2005) (“[I]t is well settled that, where a *pro se* pleading alleges a deprivation of constitutional rights cognizable under the Act, a trial court may treat the pleading as a postconviction petition.”). However, the choice to recharacterize a different pleading as a postconviction petition is wholly within the trial court’s discretion and thus not subject to review here. See 725 ILCS 5/122-1(d) (West 2016) (“A trial court that has received a petition complaining of a conviction or sentence that fails to specify in the petition or its heading that it is filed under this Section need not evaluate the petition to determine whether it could otherwise have stated some grounds for relief under this Article.”).

¶ 12

III. CONCLUSION

¶ 13 For the reasons stated, we affirm the judgment of the circuit court of McHenry County.

¶ 14 Affirmed.