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2019 IL App (3d) 180285-U

Order filed March 29, 2019

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2019

JAMES STUCKEY,)	Appeal from the Circuit Court
)	of the 9th Judicial Circuit,
Plaintiff-Appellant,)	Knox County, Illinois.
)	
v.)	Appeal No. 3-18-0285
)	Circuit No. 18-MR-55
)	
STEPHANIE DORETHY,)	The Honorable
)	Paul L. Mangieri,
Defendant-Appellee.)	Judge, Presiding.

JUSTICE LYTTON delivered the judgment of the court.
Justices Carter and O'Brien concurred in the judgment.

ORDER

¶ 1 *Held:* Trial court properly dismissed *sua sponte* prisoner's *habeas corpus* complaint alleging his enhanced sentences were void because the complaint raised non-jurisdictional errors.

¶ 2 Plaintiff James Stuckey, an inmate at Hill Correctional Center, filed a Petition for *Habeas Corpus*. His petition alleged that that the enhanced sentences he received 23 years earlier for attempted murder and aggravated criminal sexual assault were unlawful because the State never provided him with notice of its intent to seek enhanced sentences. The trial court dismissed

Stuckey’s petition *sua sponte*. Stuckey appeals the dismissal of his petition, arguing that his sentences are void and can be attacked at any time. We affirm.

¶ 3

FACTS

¶ 4

In January 1995, a jury convicted Stuckey of attempted murder and aggravated criminal sexual assault. In November 1995, the trial court ordered Stuckey to serve consecutive enhanced sentences of 60 years for attempted murder and 40 years for aggravated criminal sexual assault, requiring him to serve a total of 100 years in prison.

¶ 5

In 2018, Stuckey, an inmate at Hill Correctional Center, filed a Petition for *Habeas Corpus*, alleging that his sentences were “illegal” and “void” because the State did not notify him that it was seeking enhanced sentences prior to trial and the trial court failed to ensure that the State provided him with the requisite notice before imposing enhanced sentences. The trial court dismissed Stuckey’s petition *sua sponte* for failing to allege a cognizable basis for *habeas corpus* relief.

¶ 6

ANALYSIS

¶ 7

Habeas corpus relief is only available on the seven grounds specified in section 10-124 of the Illinois Code of Civil Procedure (735 ILCS 5/10-124 (West 2018)). *Beacham v. Walker*, 231 Ill. 2d 51, 58 (2008). The seven grounds fall into two general categories: (1) the prisoner was incarcerated by a court that lacked personal or subject matter jurisdiction; or (2) some occurrence subsequent to the conviction entitles the prisoner to immediate release. *Hennings v. Chandler*, 229 Ill. 2d 18, 30 (2008); *Barney v. Prisoner Review Board*, 184 Ill. 2d 428, 430 (1998). A petition for *habeas corpus* may not be used to review proceedings that do not fall within either of these categories even if the alleged error involves a denial of constitutional rights. *Beacham*, 231 Ill. 2d at 58.

¶ 8 A trial court may *sua sponte* deny a petition for a writ of *habeas corpus* that is insufficient on its face. *Hennings*, 229 Ill. 2d at 30. We apply *de novo* review to a trial court’s *sua sponte* dismissal of a petition for *habeas corpus*. *Id.* at 31-32.

¶ 9 A trial court’s failure to comply with a statutory requirement when imposing a sentence does not divest the court of jurisdiction, nor does it render the sentence imposed void. See *People v. Castleberry*, 2015 IL 116916, ¶ 19. While a void order may be attacked in a *habeas* proceeding, “the remedy of *habeas corpus* is not available to review errors which only render a judgment voidable and are of a nonjurisdictional nature.” *Beacham*, 231 Ill. 2d at 58-59.

¶ 10 Here, Stuckey contends that his extended-term sentences are void because the State and trial court failed to comply with statutory requirements before the court sentenced him to extended terms. We disagree.

¶ 11 Even if the State had failed to fulfill requirements necessary to seek extended-term sentences and the trial court erred in sentencing Stuckey to extended terms, such errors did not deprive the trial court of jurisdiction to sentence Stuckey nor render Stuckey’s sentences void. See *Castleberry*, 2015 IL 116916, ¶ 19. Stuckey’s petition raises nonjurisdictional errors that cannot be addressed in a *habeas* action. See *Beacham*, 231 Ill. 2d at 59. The petition was insufficient on its face, and the trial court properly dismissed it *sua sponte*. See *Hennings*, 229 Ill. 2d at 30.

¶ 12 CONCLUSION

¶ 13 The judgment of the circuit court of Knox County is affirmed.

¶ 14 Affirmed.