

**NOTICE**

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2019 IL App (4th) 180474-U

NO. 4-18-0474

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

**FILED**

March 29, 2019

Carla Bender

4<sup>th</sup> District Appellate Court, IL

THOMAS JAMES,	)	Appeal from the
Plaintiff-Appellant,	)	Circuit Court of
v.	)	Vermilion County
JUSTIN HAMMERS, Warden, Illinois River	)	No. 02CF141
Correctional Center,	)	
Defendant-Appellee.	)	Honorable
	)	Derek J. Girton,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.  
Justices Steigmann and Harris concurred in the judgment.

**ORDER**

¶ 1 *Held:* The appellate court affirmed the dismissal of plaintiff’s petition for *habeas corpus* relief.

¶ 2 Plaintiff, Thomas James, an inmate at Illinois River Correctional Center, appeals the circuit court’s dismissal of his *pro se* petition for relief under the Habeas Corpus Act (Act) (735 ILCS 5/10-101 *et seq.* (West 2016)). For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 In September 2002, a jury found plaintiff guilty of armed robbery (720 ILCS 5/18-2(a)(1) (West 2000)), a Class X felony. In December 2002, the trial court sentenced plaintiff to 32 years’ imprisonment with credit for 267 days served in presentence custody.

¶ 5 On May 7, 2018, plaintiff filed a *pro se* petition for relief under the Act (735 ILCS 5/10-101 *et seq.* (West 2016)). Plaintiff alleged he completed his sentence on March 8,

2018, because he was required to serve only 50% of his 32-year sentence and is therefore entitled to immediate discharge from custody.

¶ 6 In June 2018, the circuit court summarily dismissed plaintiff's petition. In a docket entry, the court stated the following:

“Court has reviewed the Petition for Writ of [Habeas] Corpus filed 5-7-18. In his Petition the Defendant argues that he is entitled to the issuance of a writ because calculated at 50% he has now completed his 32 year sentence in this cause. As Defendant correctly points out he was convicted of Armed Robbery. As such 85% of the sentence must be served before release. Therefore, the Petition is denied.”

¶ 7 This appeal followed.

¶ 8 II. ANALYSIS

¶ 9 Plaintiff, proceeding *pro se*, argues the circuit court's finding he is required to serve 85% of his sentence was not supported by the record and he is entitled to immediate discharge from custody. The State, citing section 3-6-3(a)(2)(iii) of the Unified Code of Corrections (Unified Code) (730 ILCS 5/3-6-3(a)(2)(iii) (West 2000)), contends plaintiff is required to serve at least 85% of his sentence. In plaintiff's reply, he argues section 3-6-3(a)(2)(iii) of the Unified Code does not apply to his sentence as the conduct leading to his conviction for armed robbery did not result in great bodily harm to a victim. See *id.*

¶ 10 We initially note plaintiff is correct in stating the truth-in-sentencing provision of section 3-6-3(a)(2)(iii) of the Unified Code does not apply to his sentence. *Id.* That provision requires a prisoner convicted of armed robbery, among other enumerated offenses, receive no

more than 4.5 days of good conduct credit for each month of his or her sentence “when the court has made and entered a finding \*\*\* that the conduct leading to conviction for the enumerated offense resulted in great bodily harm to a victim \*\*\*.” *Id.*

¶ 11 Here, the record shows the victim in this case did not suffer great bodily harm and thus the trial court made no such finding. At the sentencing hearing, the State explicitly stated the following, “Under the current sentencing statutes he will receive day for day credit, because armed robbery—there was no bodily harm sufficient to cause 85 percent to kick in.” However, we may affirm the circuit court’s judgment dismissing plaintiff’s petition on any grounds, regardless of the court’s reasoning. See *e.g.*, *Beacham v. Walker*, 231 Ill. 2d 51, 61, 896 N.E.2d 327, 333 (2008).

¶ 12 The Act sets forth seven grounds upon which a prisoner may attain *habeas* relief. 735 ILCS 5/10-124 (West 2016). Our supreme court summarized these seven grounds as two categories: (1) the trial court lacked jurisdiction over the prisoner and (2) an occurrence after the conviction entitles the prisoner to release. *People v. Gosier*, 205 Ill. 2d 198, 205, 792 N.E.2d 1266, 1270 (2001). A circuit court may *sua sponte* dismiss a plaintiff’s *habeas corpus* petition when the court determines the plaintiff cannot possibly win *habeas corpus* relief. *Hennings v. Chandler*, 229 Ill. 2d 18, 32, 890 N.E.2d 920, 928 (2008). “Under *habeas corpus*, the sole remedy is a prisoner’s immediate discharge from custody.” *Guzzo v. Snyder*, 326 Ill. App. 3d 1058, 1064, 762 N.E.2d 663, 669 (2001).

¶ 13 Defendant is not entitled to immediate discharge from custody. In April 2004, a jury found defendant guilty of armed robbery (720 ILCS 5/18-2(a)(1) (West 2002)) in Champaign County case No. 02-CF-850. See *People v. James*, 362 Ill. App. 3d 285, 838 N.E.2d 1008 (2005). We take judicial notice of the docket sheet for Champaign County case No. 02-CF-

850 as it is a public record available on the Champaign County Circuit Clerk’s website. See *Village of Riverwoods v. BG Ltd. Partnership*, 276 Ill. App. 3d 720, 724, 658 N.E.2d 1261, 1265 (1995) (“Judicial notice is proper where the document in question is part of the public record and where such notice will aid in the efficient disposition of a case.”). In the Champaign County case, the trial court sentenced defendant to 30 years’ imprisonment to run *consecutive to* his 32-year sentence in the instant case. See <http://champaigncircuitclerk.org/public-court-records/> (last visited March 18, 2019). Thus, plaintiff is not entitled to *habeas* relief.

¶ 14

### III. CONCLUSION

¶ 15 For the reasons stated, we affirm the circuit court’s judgment summarily dismissing plaintiff’s *pro se* petition for *habeas corpus* relief.

¶ 16 Affirmed.