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2014 IL App (3d) 130484-U  
Order filed June 16, 2014

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT  
A.D., 2014

WILLIAM WARD.,	)	Appeal from the Circuit Court
	)	of the 9th Judicial Circuit,
Plaintiff-Appellant,	)	Knox County, Illinois,
	)	
v.	)	Appeal No. 3-13-0484
	)	Circuit No. 13-MR-78
SALVADOR GODINEZ,	)	
	)	Honorable
Defendant-Appellee.	)	Scott Shipplett,
	)	Judge, Presiding.
	)	

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JUSTICE O'BRIEN delivered the judgment of the court.  
Justices Holdridge and McDade concurred in the judgment.

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**ORDER**

- ¶ 1     *Held:* The dismissal of an inmate's petition for *mandamus* relief was upheld because the inmate sought the imposition of good conduct credits, which were within the discretion of the Department of Corrections, so not an appropriate issue for *mandamus* relief.
- ¶ 2     The plaintiff, William Ward, acting *pro se*, filed a petition for a writ of *mandamus*, alleging he was denied statutory good conduct credits and seeking the

amendment of several statutes. The trial court found the petition to be frivolous and patently without merit and dismissed it. The plaintiff appealed.

¶ 3

### FACTS

¶ 4

The plaintiff's petition for *mandamus* alleged that the defendant, Salvador Godinez, the warden at Hill Correctional Center, failed to give him good conduct credit against his sentence. The petition also requested that the trial court find several statutes unconstitutional, and order the legislature to amend those statutes.

¶ 5

The plaintiff was convicted of two counts of aggravated battery with a firearm and sentenced on June 24, 2004, to terms of 20 years and 15 years, to be served consecutively. The sentencing order indicates that the plaintiff was to serve 85% of his sentence. The sentence calculation worksheet gave the plaintiff a projected parole date based on serving 85% of his sentence. The calculation worksheet also projected the mandatory release date, which was the total 35 years, without any good conduct credit.

¶ 6

On January 5, 2013, the plaintiff filed a grievance, seeking to have 4.5 days of good time credit applied for each month that he did not get any disciplinary tickets. The grievance was denied on the basis that meritorious and supplemental good time credits were both at the discretion of the director, and both programs were suspended on January 14, 2010. The plaintiff filed his petition for *mandamus*.

¶ 7

The trial court denied the petition as frivolous and patently without merit. It found that the Department of Corrections was acting within its authority, and a *mandamus* action was not an appropriate means for seeking judicial review of an administrative proceeding. It further found that the plaintiff's other claims were beyond the scope of a *mandamus* petition. The plaintiff appealed.

¶ 8

### ANALYSIS

¶ 9 *Mandamus* is an extraordinary remedy used to compel a public officer to perform nondiscretionary official duties. *McFatridge v. Madigan*, 2013 IL 113676. In order to obtain a *mandamus* remedy, the plaintiff must establish a clear right to the requested relief, a clear duty of the public officer to act, and clear authority of the public officer to comply with the order. *People ex rel. Birkett v. Konetski*, 233 Ill. 2d 185, 193 (2009). *Mandamus* relief is not available when the act in question involves the exercise of an official's discretion. *Konetski*, 233 Ill. 2d at 193.

¶ 10 For most criminal offenses, a defendant is eligible for day-for-day good conduct sentencing credit. 730 ILCS 5/3-6-3(a)(2.1) (West 2004). However, a defendant who has been convicted of certain enumerated offenses, including aggravated battery with a firearm, shall receive no more than 4.5 days of good conduct credit for each month of his sentence of imprisonment. 730 ILCS 5/3-6-3(a)(2)(i) (West 2004). Notably, the sentence credit statute governs only the potential credit that a defendant may receive for good conduct. *People v. Davis*, 405 Ill. App. 3d 585, 603 (2010). The sentence calculation worksheet indicates the Department of Corrections contemplates that Mr. Godinez will receive the statutory sentence credit. The actual award of good-conduct credits is contingent upon a defendant's behavior in prison, and it is within the discretion of the Department of Corrections to calculate what credit, if any, a defendant will receive. *Davis*, 405 Ill. App. 3d at 603. Since good conduct credit is within the discretion of the Department, it is not an appropriate issue for *mandamus* relief. The remainder of the plaintiff's claims are beyond the scope of a *mandamus* petition, so we affirm the dismissal of the petition.

¶ 11 CONCLUSION

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

¶ 13 Affirmed.