

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) 180180-U

NO. 4-18-0180

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

September 20, 2019

Carla Bender

4th District Appellate

Court, IL

CLARENCE JACKSON,

Plaintiff-Appellant,

v.

STATE OF ILLINOIS,

Defendant-Appellee.

) Appeal from the

) Circuit Court of

) Macon County

) No. 17MR853

)

) Honorable

) Robert Charles Bollinger,

) Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.

Justices Knecht and Cavanagh concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed the trial court’s dismissal of plaintiff’s complaint because plaintiff failed to properly serve defendant.

¶ 2 In October 2017, plaintiff filed a “Complaint for Administrative Review,” naming the State of Illinois, *et al.*, as “Defendant(s).” He complained that in June 2017, he submitted a winning lottery ticket to the Illinois Lottery Commission. Plaintiff was not paid that very same day as he would have liked but instead was paid approximately two months later. In September 2017, plaintiff wrote a letter to the Office of the Illinois Attorney General, requesting interest as a remedy for the delay.

¶ 3 The Citizen’s Advocate of the Attorney General’s Consumer Protection Division replied in a letter to plaintiff that she would not be able to provide plaintiff with the assistance plaintiff sought. Plaintiff filed his complaint following his receipt of the letter. Plaintiff

attempted personal service on the State of Illinois at the Illinois Attorney General's physical address, and that service was refused. The Illinois Attorney General filed a motion to dismiss on three grounds: (1) lack of personal jurisdiction, (2) failure to state a claim, and (3) the absence of a final administrative decision.

¶ 4 In February 2018, the circuit court made a docket entry order dismissing plaintiff's complaint, explaining that plaintiff's complaint was legally deficient for three reasons. First, it failed to allege the existence of a specific administrative decision issued by an agency, as those terms are defined by the Administrative Review Law. See 735 ILCS 5/3-101 (West 2016). Second, no summons was served upon any state agency. Third, the complaint failed to state a claim for administrative review.

¶ 5 Plaintiff appeals, arguing the circuit court erred by (1) dismissing the action for want of personal jurisdiction and (2) erroneously finding plaintiff failed to state a claim for which relief could be granted. We disagree and affirm.

¶ 6 I. BACKGROUND

¶ 7 In September 2017, plaintiff wrote a letter to the Office of the Illinois Attorney General in which he described a two-month delay in receiving \$1000 of lottery winnings. He requested interest, although he did not specify an amount.

¶ 8 The Citizen's Advocate of the Illinois Attorney General's Consumer Protection Division replied in a letter that the cooperative mediation services offered by its Consumer Fraud Bureau would not provide plaintiff with the relief he requested. It suggested several alternative courses of action to pursue his remedy.

¶ 9 In October 2017, plaintiff filed a "Complaint for Administrative Review," naming the State of Illinois, *et al.*, as "Defendant(s)." He complained of the same general problem he

originally detailed in his letter to the Illinois Attorney General.

¶ 10 In plaintiff's complaint, he also detailed general grievances dating back 26 years. He claimed that unspecified "agencies or government employees" had interfered with his ability to recover for those injuries. Plaintiff was not specific as to what administrative decision for which he sought review. (We note that based upon the context—namely, that plaintiff said his complaint was timely because he filed it within 35 days of the final administrative decision—it is most likely that he believes the letter from the Illinois Attorney General is that administrative decision.) The record does not show any service of summons on the Illinois Attorney General or any other party or agency. Plaintiff attached certain exhibits to his brief filed in the circuit court documenting unsuccessful service of summons.

¶ 11 In January 2018, defendant filed a motion to dismiss the action pursuant to section 2-619.1 of the Code of Civil Procedure (Code) (735 ILCS 5/2-619.1 (West 2016)). The motion claimed three grounds for dismissal: (1) lack of personal jurisdiction, (2) failure to state a claim, and (3) the absence of a final administrative decision.

¶ 12 Plaintiff filed a response describing problems he had with government officials interfering with his filings since 1987. He complained of "stalking," "blackballing," "retaliation," and "terroristic" activity that prevented him from receiving money or benefits. He explained that the delay in payment for his lottery winnings was the latest "attack" he suffered. He further claimed the State should have filed "the administrative record" and asked that it be held liable for "sanction damages" for failure to file the record and answer his complaint.

¶ 13 In February 2018, the circuit court made a docket entry order dismissing plaintiff's complaint, explaining that plaintiff's complaint was legally deficient because it failed to allege the existence of a specific administrative decision issued by a specific administrative

agency, as those terms are defined in the Administrative Review Law. See *Id.* § 3-101. The court further found that no summons was served upon any state agency. The court stated that the Administrative Review Law required the administrative agency that issued the administrative decision be made a party-defendant. The court also noted that summons in any action to review the final administrative decision of any administrative agency must be served “by registered or certified mail” on the agency. The court (1) found that the summons was deficient, (2) sustained the State’s objection to personal jurisdiction, and (3) dismissed the action.

¶ 14 This appeal followed.

¶ 15 II. ANALYSIS

¶ 16 Plaintiff appeals, arguing the circuit court erred by (1) dismissing the action for want of personal jurisdiction and (2) erroneously finding plaintiff failed to state a claim for which relief could be granted. We disagree and affirm.

¶ 17 A. Personal Jurisdiction

¶ 18 Plaintiff argues that the circuit court improperly dismissed his action for want of personal jurisdiction because the Sangamon County Sheriff’s Office attempted to serve the State of Illinois at 500 South 2nd Street, Springfield, Illinois, on November 3, 2017. Plaintiff contends that his attempted service through the sheriff was sufficient and mailing was not required. Defendant asserts that because service was improper, the court did not acquire personal jurisdiction over defendant and, therefore, the case was properly dismissed. We agree with defendant.

¶ 19 1. *The Applicable Law*

¶ 20 A reviewing court reviews *de novo* the question of whether a circuit court acquired personal jurisdiction over a litigant. *TCA International, Inc. v. B & B Custom Auto, Inc.*,

299 Ill. App. 3d 522, 531, 701 N.E.2d 105, 112 (1998).

¶ 21 Section 2-301 of the Code explains how a party may object to personal jurisdiction. 735 ILCS 5/2-301 (West 2016). In particular, the Code states that if there is “insufficiency of process or insufficiency of service of process,” a party may file a motion to dismiss the entire proceeding. *Id.*

¶ 22 Administrative review actions involve special statutory jurisdiction. *ESG Watts, Inc. v. Pollution Control Board*, 191 Ill. 2d 26, 30, 727 N.E.2d 1022, 1025 (2000). When a party seeks to obtain personal jurisdiction through special statutory jurisdiction, strict compliance with the statutory procedures is required. *Id.* The Code requires service of process through “registered or certified mail” in an administrative review action. 735 ILCS 5/3-105 (West 2016).

¶ 23 *2. This Case*

¶ 24 In this case, plaintiff failed to serve the correct entity in the correct manner. For this reason, plaintiff failed to take the steps necessary to secure personal jurisdiction, and the circuit court properly dismissed the case for lack of personal jurisdiction.

¶ 25 The circuit court correctly noted that plaintiff failed to serve summons on any person or agency. The only indications that plaintiff attempted to serve anyone are his exhibits C and D attached to his brief before the circuit court, which seem to be the paperwork from the Sangamon County sheriff’s unsuccessful attempt at service of summons. In any case, this method of service was not proper and did not follow the law as set out in section 3-105 of the Code, which requires service through registered or certified mail. See *Id.*

¶ 26 Plaintiff cites numerous cases relating to service of process generally. However, as noted previously, administrative review actions and jurisdiction thereof are categorically different matters, and therefore, prior decisions relating to service in generic civil actions provide

no guidance.

¶ 27 Because plaintiff did not serve process in the manner required by statute, the circuit court lacked personal jurisdiction. Accordingly, we affirm the circuit court’s dismissal of plaintiff’s complaint. We need not address the issue of whether plaintiff failed to state a claim for which relief could be granted.

¶ 28 **B. Other Grounds**

¶ 29 Although lack of personal jurisdiction is the sole ground upon which we base our decision, we note that there are two additional fatal flaws in the complaint that would have each resulted in dismissal. These two additional grounds for dismissal are that plaintiff failed to (1) identify a specific administrative decision issued by a specific administrative agency and (2) make the specific administrative agency which issued the administrative decision in question a party-defendant as required.

¶ 30 **1. Failure to Identify an Administrative Decision**

¶ 31 The Administrative Review Law states that an administrative decision means “any decision, order or determination of any administrative agency rendered in a particular case, which affects the legal rights, duties or privileges of parties and which terminates the proceedings before the administrative agency.” *Id.* § 3-101 (West 2016). This occurs when an agency (1) acts to revoke, suspend, or deny some license or privilege; (2) affects an entitlement to benefits; (3) determines the applicability of certain rules or regulations; or (4) seeks to impose a duty on some party. *O’Rourke v. Access Health, Inc.*, 282 Ill. App. 3d 394, 402, 668 N.E.2d 214, 219 (1996). “[T]he Administrative Review Law requires a ‘final’ agency determination before judicial review may commence. Absent a final agency determination, the trial court lacks jurisdiction to consider the matter.” *NDC LLC v. Topinka*, 374 Ill. App. 3d 341, 347, 871 N.E.2d

210, 216 (2007).

¶ 32 Here, plaintiff did not identify a final agency determination for which judicial review would be appropriate. The advisory letter is not an agency determination and certainly not the sort of matter subject to judicial review.

¶ 33 *2. Failure to Name an Agency*

¶ 34 The Administrative Review Law requires that the agency that issued the decision be named and made a defendant. 735 ILCS 5/3-107(a) (West 2016). “[I]n any action to review any final decision of an administrative agency, the administrative agency and all persons, other than the plaintiff, who were parties of record to the proceedings before the administrative agency shall be made defendants.” *Id.*

¶ 35 Plaintiff designated only the State of Illinois as a defendant in this action. Even assuming all other aspects of the filing were perfect, failing to name the agency for which judicial review is sought is a fatal defect.

¶ 36 *C. Other Issues*

¶ 37 Plaintiff also raises the following issues: (1) plaintiff is entitled to sanctions and damages against defendant because defendant refused service and failed to file an answer, (2) defendant has violated plaintiff’s constitutional rights under the fourteenth amendment of the United States Constitution (U.S. Const., amend XIV) and civil rights under section 1983 of the Civil Rights Act (42 U.S.C. §1983 (2014)), and (3) plaintiff is entitled to tort damages.

¶ 38 The Illinois Constitution states: “Circuit Courts shall have original jurisdiction of all justiciable matters except when the Supreme Court has original and exclusive jurisdiction relating to redistricting of the General Assembly and to the ability of the Governor to serve or resume office. Circuit Courts shall have such power to review administrative action as provided

