

NOTICE

Decision filed 09/01/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 250363-U

NO. 5-25-0363

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE

This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

RONNELL M. HUNTER,
Plaintiff-Appellant,

v.

FAIRVIEW HEIGHTS POLICE DEPARTMENT and
CITY OF BELLEVILLE,

Defendants-Appellees,

and

BELLEVILLE POLICE DEPARTMENT,
Defendants.

) Appeal from the
) Circuit Court of
) St. Clair County.

) No. 23-LA-18

) Honorable
) Heinz M. Rudolf,
) Judge, presiding.

JUSTICE HACKETT delivered the judgment of the court.
Justices Boie and Bollinger concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court entered a dismissal order with prejudice based upon lack of jurisdiction. As the circuit court, in fact, had jurisdiction over the matter, we reverse the dismissal with prejudice and remand for further proceedings.

¶ 2 I. BACKGROUND

¶ 3 On January 9, 2023, the plaintiff, Ronnell M. Hunter, filed a *pro se* complaint naming the Belleville Police Department (BPD), the Fairview Heights Police Department (FHPD), and the City of Belleville (Belleville) as defendants. The complaint sought damages for alleged violations

of the plaintiff's civil rights and due process of law. On February 14, 2023, the circuit court entered an "Initial Mandatory Status Conference Setting Assignment," with an appearance date of March 27, 2023, at 9 a.m.

¶ 4 On March 14, 2023, the plaintiff filed a "Motion to Leave to Amend Pleadings and Join Necessary Parties." The motion sought to add the following defendants: Swansea Police Department, East St. Louis Housing Authority, Housing Officer James Korba, Housing Officer Cortez Slack, Housing Officer Bennester Bennet, St. Clair County, and unknown individuals. No ruling on this motion is contained within the record on appeal.

¶ 5 On March 20, 2023, the plaintiff had summonses issued for BPD, FHPD, and Belleville. Nothing in the record on appeal indicates that these initial summonses were ever served on these defendants.

¶ 6 An order entered on March 27, 2023, indicated that no one appeared for the mandatory initial appearance held that day. Furthermore, the matter was reset for an appearance on May 31, 2023, at 9 a.m. The order provided that "[f]ailure to appear on this reset date *may result in a dismissal for want of prosecution.*" (Emphasis in original.)

¶ 7 The next order entered in the case was entered on May 31, 2023. Again, no one appeared for the setting. The court found the "[m]atter is dismissed for want of prosecution. Matter is dismissed without prejudice. Clerk to forward order to parties."

¶ 8 The next sequential filing in the record on appeal in this case was made on December 4, 2023. The plaintiff filed a "Motion to vacate court decision of 'dismiss without prejudice.'" The motion set forth the following:

“On June 27, 2023, a motion was entered into the wrong case (23CF0084001), and was supposed to be submitted into this case. So, the motion appear to have not been filed, when it was filed within 30 days.

I requested the Court to vacate the judgment entered on May 31, 2023, because I was incarcerated. I also made another request that would not be necessary at this time.”

¶ 9 On July 29, 2024, the plaintiff filed a “Motion & Notice of Hearing.” The plaintiff requested an “answer” to the motion to vacate he filed on December 4, 2023.

¶ 10 On September 18, 2024, the circuit court entered an order setting the matter for a status conference on December 10, 2024. On December 10, 2024, prior to the status conference, the plaintiff filed a “Motion & Notice of Hearing” requesting a court order or subpoena requiring the St. Clair County Jail to produce documents. On the same day, the plaintiff also filed a “Motion & Notice of Hearing” seeking to “[a]mend Complaint for adding defendant(s) and additional claims.”

¶ 11 The circuit court entered an order on December 10, 2024, which noted that the parties appeared for a status conference. An in-person hearing on all pending motions was set for January 30, 2025.

¶ 12 On December 13, 2024, the plaintiff filed a motion for a default judgment. The plaintiff filed an affidavit on January 29, 2025, that, among other things, noted that no defendants have appeared in the case. On January 30, 2025, the plaintiff filed what he titled as an affidavit, which requested “to vacate judgment while incarcerated.” Attached to that pleading was a copy of a “Motion to Vacate Judge’s Dismissal,” which was filed-stamped on June 27, 2023. This pleading is not contained sequentially within the common law record in the record on appeal, nor is the filing of this document referenced in the circuit court’s record sheet.

¶ 13 The circuit court called the matter for an all pending hearing on January 30, 2025. The plaintiff personally appeared for the hearing. The circuit court explained that when the plaintiff failed to appear, the case was dismissed for want of prosecution. The plaintiff was allowed to refile the action within one year, but had not done so. After this point, the circuit court explained it lost jurisdiction. The plaintiff claimed he filed a motion to vacate within 30 days of the dismissal, but it was misfiled into a criminal case, case No. 23-CF-84001. The circuit court adjourned the hearing to review court documents in the clerk's office. The hearing was continued to March 31, 2025, at 9 a.m.

¶ 14 On January 30, 2025, the plaintiff had alias summonses issued for BPD, FHPD, and Belleville. Affidavits of service were filed on February 4, 2025, indicating that BPD, FHPD, and Belleville were served with the alias summons on January 31, 2025.

¶ 15 On February 13, 2025, the plaintiff filed an "Affidavit in Support of Motion to Vacate Judgment of Dismissal." The plaintiff's affidavit offers his explanation as to why he did not appear in court and why the judgment should be vacated. On February 24, 2025, counsel for the City of Fairview Heights entered a special and limited appearance with a motion to quash the summons purportedly served on it.

¶ 16 On March 10, 2025, the plaintiff filed a pleading titled "affidavit," which alleged that attached to this pleading was "proof that the case was supposed to have a motion to vacate judgement [sic] entered on June 27, 2023 in response to the judges decision to dismiss on May 31, 2023." Attached was the same "Motion to Vacate Judge's Dismissal" bearing a filed stamp of June 27, 2023, that had been attached to an earlier filing by the plaintiff.

¶ 17 The circuit court entered an order on March 31, 2025. The order provided:

“This matter comes before the Court for hearing on March 31, 2025, at 9:00 a.m. Attorney Pierce appears remotely on behalf of Fairview Heights. Attorney Adam Hoerner appears in-person on behalf of the City of Belleville. Plaintiff (Mr. Ronnell Hunter) does not appear in person or remotely. At the last setting on January 30, 2025, Plaintiff was present in Court when the date and time of Monday, March 31, 2025, at 9:00 a.m. was selected and approved by him. An additional order was entered by the Court on March 18, 2025, reinforcing the pending motion setting of March 31, 2025, at 9 a.m. due to additional pleadings being filed by the Plaintiff on March 12, 2025, and March 13, 2025.

On today’s date, March 31, 2025, in open Court the clerk verified for counsel around 9:15 a.m. that no pleadings had been filed by the Plaintiff, indicating a basis for it not appearing. At the Court’s additional request, the clerk also went into the hallway and Mr. Hunter was not present.

The Court notes that the matter was previously dismissed for want of prosecution on May 31, 2023. This Court finds that it has lost jurisdiction over this matter and respectfully has not authority to do anything but enter a dismissal with prejudice.

The Court has reviewed the case of *Keener v. City of Herrin*, 235 Ill. 2d 338 (2009). In that case, the Supreme Court held that it was the party’s ‘duty to monitor the progress of the case’ and to be aware of what was or was not in the clerk’s file.

Accordingly, the Court finds that the clerk was without authority to issue the summons to Fairview Heights and as such those are quashed. This case is dismissed in its entirety with prejudice.”

The same day, the plaintiff filed a motion and notice of hearing asking for a new court date. The plaintiff alleged he believed the case was scheduled at 9:30 a.m. and he “came to the courtroom at 9:36 a.m.”

¶ 18 On April 29, 2025, the plaintiff filed a notice of appeal which listed the orders appealed from as those entered on May 31, 2023, and March 31, 2025.

¶ 19 II. ANALYSIS

¶ 20 On appeal, the plaintiff’s *pro se* brief sets forth three issues for review; however, each issue involves whether the circuit court erred in dismissing the plaintiff’s complaint with prejudice. First, the plaintiff contends it was error to dismiss the complaint with prejudice based upon a lack of jurisdiction. As this reasoning is dispositive of the appeal, our analysis will be limited to it.

¶ 21 On March 31, 2025, the circuit court dismissed the plaintiff’s complaint with prejudice and found that the matter was previously dismissed for want of prosecution on May 31, 2023, and the circuit court had since lost jurisdiction over the matter. There was no pending motion to dismiss when the circuit court entered the dismissal order; however, a circuit court may consider subject matter jurisdiction *sua sponte* since the lack of subject matter jurisdiction deprives the court of all power except to dismiss the action. *Brandon v. Bonell*, 368 Ill. App. 3d 492, 501-502 (2006). We review *de novo* orders of dismissal based on the lack of subject matter jurisdiction. *People ex rel. Madigan v. Excavating and Lowboy Services, Inc.*, 388 Ill. App. 3d 554, 557 (2009).

¶ 22 Earlier in this case, on May 31, 2023, the circuit court entered an order dismissing the plaintiff’s complaint for want of prosecution. Generally, an order dismissing a complaint for want of prosecution is not a final and appealable order. *Flores v. Dugan*, 91 Ill. 2d 108, 112 (1982). Pursuant to section 13-217 of the Code of Civil Procedure (Code) (735 ILCS 5/13-217 (West 2022)), when an action is dismissed for want of prosecution, “the plaintiff *** may commence a

new action within one year or within the remaining period of limitation, whichever is greater, after *** the action is dismissed for want of prosecution.” *Id.* As such, a dismissal for want of prosecution “remains an unappealable interlocutory order until the plaintiff’s option to refile expires.” *In re Estate of Young*, 2020 IL App (2d) 190392, ¶ 19, citing *S.C. Vaughan Oil Co. v. Caldwell Troutt & Alexander*, 181 Ill. 2d 489, 497 (1998). “Furthermore, where a timely motion to vacate an order of dismissal has been filed, the one-year refiling period does not *begin* to run until the trial court has *ruled* on the motion to vacate the [dismissal for want of prosecution.]” (Emphasis in original.) *In re Estate of Young*, 2020 IL App (2d) 190392, ¶ 19.

¶ 23 The plaintiff presented to the circuit court a “Motion to Vacate Judge’s Dismissal,” which bears the corresponding case number of 2023-LA-0018 and is filed stamped by St. Clair County on June 27, 2023. The presence of a file stamp is evidence that the document has been filed by the clerk. *Carr v. City of Chicago*, 2025 IL App (1st) 241639, ¶ 26. Throughout the proceedings in the circuit court, the plaintiff contended an error occurred with the filing of his motion; however, the document contains the correct case number and stamp of the circuit clerk. What remains unexplained is why this motion is only in the record as attachments to other documents the plaintiff filed, and not on the circuit court’s record sheet. Nevertheless, based on the file stamp on this document, this is evidence that the St. Clair County Circuit Clerk accepted and filed this pleading. The circuit court never ruled on this motion to vacate, so the one-year refiling period never began to run. *In re Estate of Young*, 2020 IL App (2d) 190392, ¶ 19. Accordingly, the circuit court did not lack jurisdiction when it dismissed the complaint with prejudice on March 31, 2025. As such, we reverse the circuit court’s May 31, 2025, order.

¶ 24

III. CONCLUSION

¶ 25 For the foregoing reasons, we reverse the circuit court's May 31, 2025, order, which dismissed the plaintiff's complaint with prejudice and quashed the alias summonses which were served on the defendants. We remand the matter to the circuit court for it to consider the plaintiff's motion to vacate the dismissal order.

¶ 26 Reversed and remanded.