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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2026

|                                               |   |                               |
|-----------------------------------------------|---|-------------------------------|
| STEVEN A. TALIANI,                            | ) | Appeal from the Circuit Court |
|                                               | ) | of the 13th Judicial Circuit, |
| Petitioner,                                   | ) | Bureau County, Illinois,      |
|                                               | ) |                               |
| v.                                            | ) | Appeal No. 3-25-0427          |
|                                               | ) | Circuit No. 24-MR-34          |
| DANIEL ANDERSON, in His Official              | ) |                               |
| Capacity as State's Attorney of the County of | ) |                               |
| Bureau,                                       | ) | The Honorable                 |
|                                               | ) | Michael C. Jansz,             |
| Respondent.                                   | ) | Judge, Presiding.             |

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JUSTICE ANDERSON delivered the judgment of the court, with opinion  
Justices Brennan and Bertani concurred in the judgment and opinion.

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**OPINION**

¶ 1 Petitioner, Steven A. Taliani, appeals following the Bureau County circuit court's dismissal of his complaint for *mandamus* relief. Petitioner argues the court erred because respondent, State's Attorney Daniel Anderson, had a duty to seek a reduction of petitioner's prison sentence as required under the Illinois Rules of Professional Conduct of 2010. We affirm.

¶ 2 I. BACKGROUND

¶ 3 Petitioner is an inmate at Hill Correctional Center serving an aggregate 100-year sentence for first degree murder (720 ILCS 5/9-1(a) (West 1994)) and aggravated battery with a firearm (*id.*

§ 12-4.2). On February 10, 2025, petitioner filed an amended complaint for *mandamus* relief wherein he argued his sentence no longer advanced the interest of justice, and respondent had a duty under the Illinois Rules of Professional Conduct of 2010 (Ill. R. Pro. Conduct (2010) R. 3.8(d) (eff. Jan. 1, 2016)) to motion the court for resentencing. Specifically, Rule 3.8(d) pertains to special responsibilities of a prosecutor, which includes that a prosecutor shall “in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor.” *Id.* Petitioner attached various documents to his complaint to demonstrate that he had a low risk of recidivism, which was based on a correctional counselor determining he had low aggression and had completed various courses while imprisoned.

¶ 4 On March 24, 2025, respondent filed a motion to dismiss the amended complaint pursuant to section 2-615 of the Code of Civil Procedure (Civil Code) (735 ILCS 5/2-615 (West 2024)), arguing petitioner was not entitled to *mandamus* relief because a state’s attorney has the discretion as to whether to file a motion for resentencing under section 122-9(b) of the Code of Criminal Procedure of 1963 (Criminal Code) (725 ILCS 5/122-9(b) (West 2024)). Further, respondent argued Rule 3.8 had no relevance under these circumstances.

¶ 5 On August 26, 2025, the court held a hearing and dismissed the complaint. The court found that, under the statutory authority provided, state’s attorneys had the discretion as to whether to file a motion for resentencing, and thus, it was not a proper basis for *mandamus* relief. Moreover, it found that Rule 3.8(d) did not create a continuing duty for a state’s attorney to investigate mitigating information that may warrant resentencing. Petitioner appeals.

¶ 6 II. ANALYSIS

¶ 7 On appeal, petitioner argues the court erred as a matter of law when it granted respondent’s motion to dismiss his complaint for *mandamus* relief. A section 2-615 motion to dismiss attacks

the legal sufficiency of the complaint. *In re Estate of Powell*, 2014 IL 115997, ¶ 12. A complaint should be dismissed under this section where “it is clearly apparent from the pleadings that no set of facts can be proven that would entitle the plaintiff to recover.” *Id.* The court must accept all pleaded facts as true in the light most favorable to the petitioner. *Fillmore v. Taylor*, 2019 IL 122626, ¶ 35. We review *de novo* a circuit court’s dismissal of a *mandamus* complaint pursuant to section 2-615 of the Civil Code. *Nyhammer v. Basta*, 2022 IL 128354, ¶ 29.

¶ 8 “*Mandamus* is an extraordinary remedy to enforce, as a matter of right, the performance of official duties by a public officer where no exercise of discretion on his part is involved.” (Internal quotation marks omitted.) *People ex rel. Smith v. Tobin*, 2025 IL 131213, ¶ 25. *Mandamus* cannot be used to direct a public official to perform a discretionary duty—it is only appropriate when it is used to compel compliance with mandatory legal standards. *McFatridge v. Madigan*, 2013 IL 113676, ¶ 17. *Mandamus* relief will only be issued by the court when the petitioner has demonstrated all of the following: (1) a clear right to the requested relief, (2) a clear duty of the public officer to act, and (3) clear authority of the public officer to comply with the order. *Id.*

¶ 9 Petitioner argues that he demonstrated his entitlement to *mandamus* relief because Rule 3.8(d) is mandatory and supersedes the discretion provided to state’s attorneys under section 122-9(b) of the Criminal Code (725 ILCS 5/122-9(b) (West 2024)). We first analyze the language of section 122-9(b) of the Criminal Code. When interpreting a statute, our primary objective is to ascertain and effectuate the intent of the legislature. *People v. Pullen*, 192 Ill. 2d 36, 42 (2000). The best indicator of this intent is the language of the statute. *Id.* When the language of a statute is clear and unambiguous, it should be applied without resorting to additional aids of statutory construction. *People v. Marshall*, 242 Ill. 2d 285, 292 (2011). A court may not depart from a

statute's plain language by reading into exceptions, limitations, or conditions the legislature did not express. *In re Hernandez*, 2020 IL 124661, ¶ 18.

¶ 10 Section 122-9(b) of the Criminal Code provides, as follows:

“At any time upon the recommendation of the State’s Attorney of the county in which the defendant was sentenced, the State’s Attorney *may* petition the sentencing court or the sentencing court’s successor to resentence the offender if the original sentence no longer advances the interests of justice. The sentencing court or the sentencing court’s successor may resentence the offender if it finds that the original sentence no longer advances the interests of justice.” (Emphasis added.) 725 ILCS 5/122-9(b) (West 2024).

¶ 11 The legislature’s use of “may” connotes discretion, as it gives one the ability to decide whether to take action. See *Fritz v. Staley Ferry*, 2025 IL App (3d) 240489, ¶ 55; *Canel v. Topinka*, 212 Ill. 2d 311, 326 (2004) (“Except in very unusual circumstances affecting the public interest, the legislature’s use of the word ‘may’ indicates that the statute is permissive as opposed to mandatory.”). The language also makes clear that it is the state’s attorney who is given the discretion, as it provides, “the State’s Attorney may petition the sentencing court.” 725 ILCS 5/122-9(b) (West 2024). Based on the foregoing, this statute provides a state’s attorney with the discretion as to whether they petition the sentencing court to resentence an offender. Accordingly, petitioner in this case is not entitled to *mandamus* relief because a writ of *mandamus* cannot be used to direct respondent to use his discretion in a particular manner. See, e.g., *Crump v. Illinois Prisoner Review Board*, 181 Ill. App. 3d 58, 61-62 (1989) (finding the defendants’ decision to deny the plaintiff parole was a discretionary decision and not a proper subject for *mandamus* relief).

¶ 12 Nonetheless, petitioner argues this statutory discretion is superseded by the mandatory language in Rule 3.8(d), which states that the prosecutor in a criminal case shall:

“(d) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal[.]” Ill. R. Pro. Conduct (2010) R. 3.8(d) (eff. Jan. 1, 2016).

¶ 13 Petitioner argues respondent failed to comply with the mandatory duty in Rule 3.8(d) because respondent did not disclose reports of petitioner’s conduct since incarceration, which contained mitigating information demonstrating his rehabilitation. However, petitioner fails to acknowledge that he has already been sentenced, and Rule 3.8(d) does not contemplate postsentencing matters. In fact, Rule 3.8 contains two other paragraphs pertaining to ongoing duties of a prosecutor postsentencing that apply: “(g) [w]hen a prosecutor knows of new, credible and material evidence creating a reasonable likelihood that a convicted defendant did not commit an offense of which the defendant was convicted” and “(h) [w]hen a prosecutor knows of clear and convincing evidence establishing that a defendant in the prosecutor’s jurisdiction was convicted of an offense that the defendant did not commit.” Ill. R. Pro. Conduct (2010) R. 3.8(g), (h) (eff. Jan. 1, 2016). Neither of these paragraphs discuss disclosure of new mitigating factors for resentencing. Further, the supreme court’s use of language in paragraph (d) and wholly different language in paragraphs (g) and (h) demonstrates different results were intended. See *In re K.C.*, 186 Ill. 2d 542, 549-50 (1999). We cannot read into the rule language that the supreme court did not express. See *Hernandez*, 2020 IL 124661, ¶ 18.

¶ 14 Moreover, petitioner has failed to demonstrate that an alleged violation of a rule of professional conduct is the proper subject matter for a *mandamus* action. See Ill. R. Pro. Conduct (2010), Preamble (eff. Jan. 1, 2010) (“Violation of a Rule should not \*\*\* create any presumption in such a case that a legal duty has been breached.”); see also, *e.g.*, *Prospect Funding Holdings, LLC v. Saulter*, 2018 IL App (1st) 171277, ¶ 36 (stating that a violation of the professional conduct rules does not establish a separate duty or cause of action). An alleged violation of the professional conduct rules is brought before the Attorney and Registration Disciplinary Commission, which decides whether an attorney acted ethically and if disciplinary action is required. As stated in the preamble to the rules of professional conduct, “The fact that a Rule is a just basis for a lawyer’s self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the Rule.” Ill. R. Pro. Conduct (2010), Preamble (eff. Jan. 1, 2010).

¶ 15 For these reasons, petitioner failed to demonstrate he was entitled to *mandamus* relief, and the court did not err as a matter of law when it dismissed his complaint.

¶ 16 III. CONCLUSION

¶ 17 The judgment of the circuit court of Bureau County is affirmed.

¶ 18 Affirmed.

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***Taliani v. Anderson, 2026 IL App (3d) 250427***

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**Decision Under Review:** Appeal from the Circuit Court of Bureau County, No. 24-MR-34; the Hon. Michael C. Jansz, Judge, presiding.

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**Attorneys  
for  
Appellant:** Steven A. Taliani, of Galesburg, appellant *pro se*.

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**Attorneys  
for  
Appellee:** Kwame Raoul, Attorney General, of Chicago (Jane Elinor Notz, Solicitor General, and Emily A. Vernon, Assistant Attorney General, of counsel), for appellee.

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