

court granted respondent's motion to dismiss. Petitioner filed a motion to reconsider, which the court denied following a December 2021 hearing.

¶ 3 Petitioner appeals, asserting the circuit court erred by dismissing his *mandamus* petition. We affirm.

¶ 4 I. BACKGROUND

¶ 5 Petitioner was formerly incarcerated at several Illinois correctional institutions, most recently Illinois River Correctional Center (Illinois River), where he was serving a 70-year sentence for his 1990 first degree murder conviction. *Inmate Search*, Illinois Department of Corrections, <https://www2.illinois.gov/idoc/Offender/pages/inmatesearch.aspx> (last visited November 16, 2022). According to the Department of Corrections website, petitioner was ostensibly released from Illinois River in July 2022 and is currently serving a three-year term of mandatory supervised release. While incarcerated, petitioner worked for Illinois Correctional Industries in several roles and completed a number of educational programs and certifications.

¶ 6 In June 2020, petitioner filed his petition seeking *mandamus* relief. Specifically, petitioner sought 1575 days of earned program sentencing credit (“EPSC”) under section 3-6-3(a)(4) of the Unified Code (730 ILCS 5/3-6-3(a)(4) (West Supp. 2021)), which allows eligible Department of Corrections inmates additional sentencing credit for participation in, *inter alia*, correctional industry assignments and educational programs. In September 2020, respondent filed a motion to dismiss the petition under section 2-615 of the Procedure Code (735 ILCS 5/2-615 (West 2020)), arguing petitioner failed to exhaust his administrative remedies. In December 2020, the circuit court found the petition should be dismissed without prejudice because petitioner failed to allege he exhausted his administrative remedies. Petitioner was allowed 30 days to file an amended petition.

¶ 7 In January 2021, petitioner filed his amended petition, again asserting he was entitled to 1575 days' EPSC under section 3-6-3(a)(4) and explaining as follows. Petitioner was convicted of first degree murder before 1998 and received day-for-day "good conduct" credit against his sentence. Because he received day-for-day sentencing credit, prior to January 2018, petitioner was statutorily prohibited from also receiving EPSC. The legislature later amended section 3-6-3(a)(4) to eliminate this prohibition, which became effective in January 2018. Following this legislation, in December 2019, petitioner filed an affidavit with the Prisoner Review Board claiming he was entitled to 1575 days' EPSC. After his affidavit was submitted, petitioner was informed that the Department of Corrections would only award him 90 days of total EPSC for his participation across all eligible programs. Petitioner filed a grievance challenging this policy, and in January 2020, the grievance officer determined petitioner's grievance was meritless. The warden concurred with the grievance officer's denial of petitioner's grievance. Based on the grievance officer's and warden's decisions, petitioner claimed he had exhausted his administrative remedies regarding his entitlement to EPSC. Petitioner also attached to the amended petition photocopies of educational certificates he earned during his incarceration.

¶ 8 In June 2021, respondent filed a motion to dismiss the amended petition under section 2-615 of the Procedure Code, asserting petitioner failed to state a claim upon which relief could be granted. Specifically, respondent argued that under the terms of section 3-6-3(a)(4) of the Unified Code, petitioner was only entitled to a maximum of 90 days' EPSC. Because petitioner could not demonstrate a clear right to 1575 days' EPSC, respondent argued, he failed to state a claim for *mandamus* relief.

¶ 9 Following a July 2021 hearing, the trial court granted respondent’s motion to dismiss. The trial court entered a written order concluding petitioner failed to state a claim for relief because “a prisoner is not entitled to 90 days for each individual program but rather a cumulative 90 days of earned program sentence credit for all participation in all programs prior to June 19, 1998 [*sic*] pursuant to the terms of 730 ILCS 5/3-6-3(a)(4).”

¶ 10 In August 2021, petitioner filed a motion to reconsider, arguing the trial court’s judgment was inconsistent with the language of the statute. Following a hearing on December 15, 2021, the trial court denied petitioner’s motion to reconsider.

¶ 11 On January 10, 2022, petitioner placed a notice of appeal in the United States mail system at Illinois River, accompanied by a proof of service attesting he had done so. The Sangamon County circuit court file-stamped the notice of appeal on January 28, 2022. Pursuant to Illinois Supreme Court Rule 373 (eff. Jul. 1, 2017), petitioner’s notice was considered filed on January 10, 2022, and therefore filed in sufficient compliance with Illinois Supreme Court Rule 303 (eff. Jul. 1, 2017). Thus, this court has jurisdiction of petitioner’s appeal under Illinois Supreme Court Rule 301 (eff. Feb. 1, 1994).

¶ 12 II. ANALYSIS

¶ 13 On appeal, petitioner argues the trial court erroneously dismissed his *mandamus* petition because he demonstrated a clear right to 1575 days’ EPSC. Respondent argues the trial court’s dismissal was proper because a plain reading of section 3-6-3(a)(4) of the Unified Code shows petitioner is only entitled to a maximum of 90 days’ total EPSC. We agree with respondent.

¶ 14 A. Standard of Review

¶ 15 In this case, the court allowed respondent’s motion to dismiss under section 2-615 of the Procedure Code (735 ILCS 5/2-615 (West 2020)). A motion to dismiss under section 2-615 challenges only the legal sufficiency of the complaint. *Schloss v. Jumper*, 2014 IL App (4th) 121086, ¶ 20, 11 N.E.3d 57. In ruling on a section 2-615 motion to dismiss, “the question is ‘whether the allegations of the complaint, when construed in the light most favorable to the plaintiff, are sufficient to establish a cause of action upon which relief may be granted.’ ” *Green v. Rogers*, 234 Ill. 2d 478, 491, 917 N.E.2d 450, 458-59 (2009) (quoting *Vitro v. Mihelcic*, 209 Ill. 2d 76, 81, 806 N.E.2d 632, 634 (2004)). The trial court should not grant a motion to dismiss “unless it is clearly apparent that no set of facts can be proved that would entitle the plaintiff to relief.” *Tedrick v. Community Resource Center, Inc.*, 235 Ill. 2d 155, 161, 920 N.E.2d 220, 223 (2009). We review a dismissal pursuant to section 2-615 *de novo*. *Beacham v. Walker*, 231 Ill. 2d 51, 57, 896 N.E.2d 327, 331 (2008).

¶ 16 B. *Mandamus* Relief

¶ 17 “*Mandamus* is an extraordinary remedy used to compel a public official to perform a purely ministerial duty where no exercise of discretion is involved.” *People ex rel. Alvarez v. Skryd*, 241 Ill. 2d 34, 38, 944 N.E.2d 337, 341 (2011). A petition for *mandamus* will be granted “ ‘only if a plaintiff establishes a clear, affirmative right to relief, a clear duty of the public official to act, and a clear authority in the public official to comply with the writ.’ ” *Hadley v. Montes*, 379 Ill. App. 3d 405, 407, 883 N.E.2d 703, 705 (2008) (quoting *People ex rel. Ryan v. Roe*, 201 Ill. 2d 552, 555, 778 N.E.2d 701, 703 (2002)). “The plaintiff bears the burden of demonstrating a clear, legal right to the requested relief and must set forth every material fact necessary to prove he is entitled to a writ of *mandamus*.” *Gillick v. Saddler*, 2012 IL App (4th) 111117, ¶ 21, 984 N.E.2d 1146.

¶ 18

C. Earned Program Sentencing Credit

¶ 19

The current version of section 3-6-3(a)(4) of the Unified Code states, in pertinent part, as follows:

“(4)(A) Except as provided in paragraph (4.7) of this subsection (a), the rules and regulations shall also provide that any prisoner who is engaged full-time in substance abuse programs, correctional industry assignments, educational programs, work-release programs or activities in accordance with Article 13 of Chapter III of this Code, behavior modification programs, life skills courses, or re-entry planning provided by the Department under this paragraph (4) and satisfactorily completes the assigned program as determined by the standards of the Department, shall receive one day of sentence credit for each day in which that prisoner is engaged in the activities described in this paragraph. ***

(B) The Department shall award sentence credit under this paragraph (4) accumulated prior to January 1, 2020 (the effective date of Public Act 101-440) in an amount specified in subparagraph (C) of this paragraph (4) to an inmate serving a sentence for an offense committed prior to June 19, 1998, if the Department determines that the inmate is entitled to this sentence credit, based upon:

(ii) the inmate’s own testimony in the form of an affidavit or documentation, or a third party’s documentation or testimony in the form of an affidavit that the inmate likely engaged in any full-time substance abuse programs, correctional industry assignments, educational programs,

behavior modification programs, life skills courses, or re-entry planning provided by the Department under paragraph (4) and satisfactorily completed the assigned program as determined by the standards of the Department during the inmate's current term of incarceration.

(C) If the inmate can provide documentation that he or she is entitled to sentence credit under subparagraph (B) in excess of 45 days of participation in those programs, the inmate shall receive 90 days of sentence credit.” 730 ILCS 5/3-6-3(a)(4) (West Supp. 2021).

¶ 20 The parties do not dispute petitioner was convicted before 1998 and participated in programs which qualified him for EPSC. Rather, the parties only dispute the number of days of EPSC to which petitioner is entitled. Petitioner argues he is entitled to 90 days of sentencing credit for each program in which his participation exceeded 45 days and 45 days of sentencing credit for each program completed in which his participation was fewer than 45 days. Under this formula, petitioner's argument continues, he is entitled to 1575 days' EPSC. Respondent argues under a plain reading of section 3-6-3(a)(4)(C), petitioner is only entitled to 90 days' total EPSC for participation in all programs completed before January 1, 2020.

¶ 21 “The cardinal rule of statutory construction is to ascertain and give effect to the intent of the legislature.” *People v. McClure*, 218 Ill. 2d 375, 381, 843 N.E.2d 308, 312 (2006). The best evidence of legislative intent can be found in the language of the statute, which is given its plain and ordinary meaning. *McClure*, 218 Ill. 2d at 382, 843 N.E.2d at 312. “If intent can be determined from the plain language of the statute, there is no need to resort to interpretive aids.” *McClure*, 218 Ill. 2d at 382, 843 N.E.2d at 312. The reviewing court must not depart from the statutory text “by reading into it exceptions, limitations, or conditions that conflict with the intent

of the legislature.” *McClure*, 218 Ill. 2d at 382, 843 N.E.2d at 312. We review questions of statutory construction *de novo*. *Medponics Illinois, LLC v. Department of Agriculture*, 2021 IL 125443, ¶ 29, 183 N.E.3d 79.

¶ 22 Here, we agree with respondent the plain language of the statute indicates petitioner is only entitled to 90 days’ total EPSC for all programs completed prior to January 1, 2020. As noted above, section 3-6-3(a)(4)(C) states, “If the inmate can provide documentation that he or she is entitled to sentence credit under subparagraph (B) in excess of 45 days of participation in those programs, *the inmate shall receive 90 days of sentence credit.*” (Emphasis added.) 730 ILCS 5/3-6-3(a)(4)(C) (West Supp. 2021). Subparagraph B specifically states the Department of Corrections shall award sentencing credit accumulated before January 1, 2020, for those convicted before June 19, 1998, “*in an amount specified in subparagraph (C).*” (Emphasis added.) 730 ILCS 5/3-6-3(a)(4)(B) (West Supp. 2021). The statute does not contain any mandate requiring the Department of Corrections to award sentencing credit in 90-day blocks for each eligible program an inmate has completed for which his participation exceeded 45 days. Subparagraph (C) refers to an inmate’s participation exceeding 45 days in “*those programs*”—not *each* program. 730 ILCS 5/3-6-3(a)(4)(C) (West Supp. 2021). The plain language of the statute supports a reading that an inmate eligible for EPSC under subparagraph (B) is entitled to a fixed amount of no more than 90 days’ total sentencing credit. As we conclude the language of section 3-6-3(a)(4) is clear and unambiguous, we decline to address petitioner’s argument the legislative history of the statute supports his interpretation.

¶ 23 Under section 3-6-3(a)(4)(C), petitioner was only entitled to a maximum of 90 days’ EPSC, and he therefore had no right to the 1575 days of EPSC requested in his *mandamus* petition. Because petitioner can plead no set of facts entitling him to that relief, petitioner failed

to state a cause of action, and the trial court's dismissal of the petition under section 2-615 of the Procedure Code was proper. Accordingly, we affirm the trial court's judgment.

¶ 24

III. CONCLUSION

¶ 25 For the reasons stated, consistent with Illinois Supreme Court Rule 23(b) (eff. Jan. 1, 2021), we affirm the trial court's judgment.

¶ 26

Affirmed.