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SJC-13311

LEONARD JERMAINE JACKSON vs. COMMONWEALTH.

March 29, 2024.

Supreme Judicial Court, Superintendence of inferior courts,
Appeal from order of single justice. Practice, Civil,
Transfer of action to Superior Court.

Leonard Jermaine Jackson, the defendant in the underlying criminal case, filed a petition in the county court requesting to have his case transferred from the Superior Court in Bristol County to this court, pursuant to G. L. c. 211, § 4A. A single justice denied the petition without a hearing. We affirm.

In 2002, Jackson was found guilty of murder in the first degree, as well as unlawful possession of a firearm. Both convictions were affirmed on direct appeal. See Commonwealth v. Jackson, 447 Mass. 603 (2006). In 2014, he filed a petition in the county court, pursuant to G. L. c. 211, § 3, seeking to raise various arguments challenging the lawfulness of his conviction (2014 petition). A single justice of this court transferred the matter to the Superior Court. In 2022, Jackson filed the instant petition, asserting that his prior petition had never been ruled upon by the Superior Court, and requesting that his case be transferred to this court for resolution of the arguments raised in his 2014 petition.

A defendant's request to have his case transferred to this court under G. L. c. 211, § 4A, is "a matter within the single justice's discretion." Stow v. Commonwealth, 423 Mass. 1002, 1002 (1996). See McCabe v. Commissioner of Correction, 465 Mass. 1001, 1001 (2013). Here, there was no basis to conclude that the single justice was required to transfer Jackson's

criminal case, and "no indication that [the single justice] abused his discretion in declining to do so." Sharma v. County Mtge., LLC, 489 Mass. 1006, 1006 (2022). Accordingly, the single justice did not err or abuse his discretion in denying relief.^{1,2}

Judgment affirmed.

The case was submitted on briefs.
Leonard Jermaine Jackson, pro se.
David B. Mark, Assistant District Attorney, for the Commonwealth.

¹ We note that Jackson's 2014 petition appears to have been ruled upon by the Superior Court in an order dated April 5, 2015, which makes explicit reference to the 2014 petition, its transfer to the Superior Court, and the arguments raised therein. The Commonwealth's suggestion at a subsequent motion hearing that the 2014 petition remained unresolved seemingly related to documents that Jackson had submitted to the county court after his 2014 petition had already been transferred.

² We further note that because Jackson stands convicted of murder in the first degree, he may not appeal from the denial of relief by the Superior Court without first obtaining leave by a single justice of this court, pursuant to G. L. c. 278, § 33E. See Vinnie v. Superintendent, Massachusetts Correctional Inst., Norfolk, 479 Mass. 1007, 1007 (2018) (single justice properly denied defendant's request to reinstate petition, which had been transferred to Superior Court, where relief was subsequently denied, because defendant could not "circumvent the gatekeeper provision by filing his petition in the county court in the first instance" [citation omitted]).