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SJC-13519

ORRETT DALEY vs. COMMONWEALTH.

March 29, 2024.

Supreme Judicial Court, Superintendence of inferior courts,
Appeal from order of single justice.

Orrett Daley appeals from a judgment of the county court denying, without a hearing, his petition for relief under G. L. c. 211, § 3, on the ground that he has an adequate remedy in the normal appellate process. We affirm.

Daley has been charged in the District Court with operating a motor vehicle while under the influence of liquor and other offenses. He filed a motion for third-party records, specifically, personal telephone records of the State police trooper¹ who conducted the motor vehicle stop that resulted in the charges. That motion was denied, as was a motion for reconsideration. Some months later, Daley filed a motion to impose sanctions on the Commonwealth for an alleged lack of compliance with a discovery order and a request for records based on new evidence. That motion and request were also denied. Daley's G. L. c. 211, § 3, petition challenged these interlocutory rulings.

The case is before us pursuant to S.J.C. Rule 2:21 (2), as amended, 434 Mass. 1301 (2001), which requires Daley to file a

¹ The trooper filed a motion to intervene in the county court proceedings. The single justice, having ruled that Daley was not entitled to relief, denied the motion to intervene as moot. That ruling has not been challenged before us.

record appendix and memorandum "set[ting] forth the reasons why review of the trial court decision cannot adequately be obtained on appeal from any final adverse judgment in the trial court or by other available means."² Daley cannot make this showing. The adverse rulings can be addressed on appeal if he is convicted of any offense. Daley asserts that he should not have to await conviction and appeal, but offers no reason why this ordinary process, applicable in any other case where a criminal defendant unsuccessfully moves for discovery, is inadequate in his case. The single justice neither erred nor abused his discretion by denying relief.

Judgment affirmed.

The case was submitted on the papers filed, accompanied by a memorandum of law.

Michael A. McLaughlin for the petitioner.

² Daley has filed a brief, which we are treating as the memorandum required by the rule.