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SJC-12526

RICHARD MICHAEL BARBOSA vs. COMMONWEALTH.

February 25, 2019.

Supreme Judicial Court, Superintendence of inferior courts.  
Practice, Criminal, Record.

The petitioner, Richard Michael Barbosa, appeals from a judgment of a single justice of this court dismissing, without a hearing, his petition pursuant to G. L. c. 211, § 3. The papers that Barbosa has filed are, at best, difficult to discern. He appears to be complaining about certain actions, or inactions, of both the trial court judge and standby counsel in various criminal proceedings in the Superior Court. Neither the specifics about which he complains nor what relief he seeks are clear. His submissions, in short, do not rise to the level of adequate appellate argument and they fail to establish any coherent basis for relief. Mass. R. A. P. 16 (a) (4), as amended, 367 Mass. 921 (1975). Moreover, Barbosa had, but failed to meet, the burden "to provide a record sufficient to evaluate his claims." Sabree v. Commonwealth, 479 Mass. 1006, 1007 (2018), citing Gorod v. Tabachnick, 428 Mass. 1001 (1998).<sup>1</sup>

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<sup>1</sup> It appears that some of the matters that the petitioner raises may pertain to his currently pending direct appeal. If that is so, he is free to raise those matters in that appeal if relevant. To the extent that he raises matters pertaining to earlier convictions (that are not a part of the pending direct appeal), such as complaints about ineffective assistance of counsel, those matters appear to be ones that should be raised in the first instance in the trial court via a motion for a new trial.

Judgment affirmed.

Richard Michael Barbosa, pro se.  
Houston Armstrong, Assistant District Attorney, for the  
Commonwealth.