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SJC-12608

JAMES PETER KYRICOPOULOS vs. ATTORNEY GENERAL & another.¹

January 24, 2019.

Supreme Judicial Court, Superintendence of inferior courts.

The petitioner, James Peter Kyricopoulos, appeals from a judgment of a single justice of this court denying his petition pursuant to G. L. c. 211, § 3. We affirm.

A jury convicted Kyricopoulos in 2014 of numerous counts of larceny over \$250 in violation of G. L. c. 266, § 33. He filed a timely notice of appeal. As best we can tell from the record, including the trial court docket, there was some delay in the preparation of the relevant trial transcripts and the assembly of the record, leading eventually to Kyricopoulos's filing of a document with a single justice of the Appeals Court that was treated as a motion to compel assembly of the record and allowed.² The record was subsequently assembled, and Kyricopoulos's direct appeal was entered in the Appeals Court in July 2016. After several stays, at Kyricopoulos's request, the appeal was ultimately dismissed for lack of prosecution in June 2017.³

¹ Clerk of Courts for Essex County.

² To the extent Kyricopoulos sought other relief in that same document, it was denied.

³ Kyricopoulos also filed at least one G. L. c. 211, § 3, petition during this time, which was denied, and from which he did not appeal.

Kyricopoulos filed his G. L. c. 211, § 3, petition, in June 2018, in which, among other things, he sought to have his convictions vacated and the indictments dismissed, to be released immediately from prison, and to have certain evidence destroyed. He also asked the court to commence investigations into various individuals associated with his case, including the prosecutor, a judge, and the Attorney General. The single justice denied the petition without a hearing, and then subsequently denied Kyricopoulos's motions for reconsideration.

Kyricopoulos has now filed what appears to have been intended as a memorandum and appendix pursuant to S.J.C. Rule 2:21, as amended, 434 Mass. 1301 (2001). Technically speaking, rule 2:21 does not apply in this situation because Kyricopoulos is not challenging any interlocutory ruling of the trial court. It is nonetheless clear that he is not entitled to review pursuant to G. L. c. 211, § 3. He continues to raise issues related to the delay in the assembly of the record in the trial court. To the extent that the record was assembled and Kyricopoulos's direct appeal was properly entered in the Appeals Court, the issue is moot. To the extent that Kyricopoulos claims that, in connection with the delay in the assembly of the record, members of the bar and the judiciary falsified docket entries, committed perjury, or otherwise sought to deprive Kyricopoulos of his rights, his arguments are neither adequate appellate argument nor substantiated by the record. See Mass. R. A. P. 16 (a) (4), as amended, 367 Mass. 921 (1975). See also Gorod v. Tabachnick, 428 Mass. 1001, 1001, cert. denied, 525 U.S. 1003 (1998), and cases cited.⁴

The single justice did not err or abuse his discretion in denying relief under G. L. c. 211, § 3.

Judgment affirmed.

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

James Peter Kyricopoulos, pro se.

⁴ Furthermore, Kyricopoulos's pejorative remarks about various individuals involved with his case, including a prosecutor, several judges, and the Attorney General, are inappropriate and do not in any way enhance his position.