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SJC-12729

RAYMOND P. VINNIE vs. SUPERINTENDENT, MASSACHUSETTS
CORRECTIONAL INSTITUTION, NORFOLK.

July 16, 2019.

Supreme Judicial Court, Superintendence of inferior courts.

Raymond P. Vinnie was convicted of murder in the first degree in 1993. We affirmed both the conviction and the denial of his motion for a new trial. Commonwealth v. Vinnie, 428 Mass. 161, 163, cert. denied, 525 U.S. 1007 (1998). Since then, Vinnie has filed numerous postconviction motions, both in the trial court and in this court. See, e.g., Vinnie v. Superintendent, Mass. Correctional Inst., Norfolk, 479 Mass. 1007, 1008 (2018) (affirming single justice's judgment denying motion to reinstate petition for writ of habeas corpus); Vinnie v. Commonwealth, 475 Mass. 1011, 1012 (2016) (affirming single justice's judgment denying mandamus relief). In his most recent effort to obtain relief, Vinnie filed a "Verified Complaint for Declaratory and Injunctive Relief" in the county court, which a single justice denied without a hearing.

Vinnie has now filed a memorandum and appendix pursuant to S.J.C. Rule 2:21, as amended, 434 Mass. 1301 (2001). Even though rule 2:21 does not apply here, because he is not challenging any interlocutory rulings of the trial court, it is clear that he is not entitled to relief. Regardless of how Vinnie styles his filing, his request for declaratory and injunctive relief is merely a recasting of the same types of claims that he has raised in his previous postconviction filings. Even if his claims were new, his avenue for seeking relief is in the Superior Court in the first instance. Should his efforts in that court be denied, he can then seek leave to obtain review in this court pursuant to the gatekeeper provision

of G. L. c. 278, § 33E. What he cannot do, as we have recently reminded him, is "circumvent the gatekeeper provision" by filing petitions or complaints such as this in the county court in the first instance. Vinnie, 479 Mass. at 1007-1008, quoting Tyree v. Commonwealth, 449 Mass. 1034, 1034 (2007).

The single justice did not err in denying relief.

Judgment affirmed.

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

Raymond P. Vinnie, pro se.