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SJC-12824

JAMES PETER KYRICOPOULOS vs. COMMONWEALTH.

February 21, 2020.

Supreme Judicial Court, Superintendence of inferior courts.

James Peter Kyricopoulos appeals from a judgment of the county court denying, without a hearing, his petition for relief under G. L. c. 211, § 3. We affirm.

Kyricopoulos was convicted in 2014 of multiple counts of larceny over \$250. He filed a timely notice of appeal. However, apparently due to delay in the preparation of trial transcripts and the assembly of the record, the appeal was not entered in the Appeals Court until 2016. The appeal was ultimately dismissed for lack of prosecution in 2017. See Kyricopoulos v. Attorney General, 481 Mass. 1024, 1025 (2019). In his G. L. c. 211, § 3, petition, he sought an order dismissing the underlying criminal charges, apparently contending that his appeal was deliberately blocked by the Appeals Court and others. A single justice of this court denied relief and, citing Kyricopoulos's multiple petitions seeking the same or substantially similar relief, warned him that future such filings might result in the court's taking remedial measures, including restrictions on future filings.

Kyricopoulos has 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). 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, essentially for the same reasons stated in Kyricopoulos, supra, and cases cited therein. His claims that

members of the bar and the judiciary deliberately conspired to delay production of the transcripts and to thwart his appellate rights are unsubstantiated by the record and do not constitute adequate appellate argument.¹ See Mass. R. A. P. 16 (a) (9), as appearing in 481 Mass. 1628 (2019). Kyricopoulos also alleges that he received improper and dangerous medical treatment while in prison. These allegations, while serious, are not properly before us and do not provide a basis to disturb the single justice's judgment. Finally, any claim that Kyricopoulos's convictions should be vacated and the charges dismissed can be raised in a motion pursuant to Mass. R. Crim. P. 30, as appearing in 435 Mass. 1501 (2001).² Where Kyricopoulos had this ordinary remedy, he was not entitled to invoke the court's extraordinary superintendent power.

In sum, based on the record before us, the single justice did not err or abuse her discretion by 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.

¹ Moreover, despite our advising Kyricopoulos that his "pejorative remarks about various individuals involved with his case . . . are inappropriate and do not in any way enhance his position," Kyricopoulos v. Attorney General, 481 Mass. 1024, 1025 n.4 (2019), Kyricopoulos has continued to make similarly pejorative remarks about the single justice and others.

² It appears from the Superior Court record that Kyricopoulos did in fact file a motion pursuant to Mass. R. Crim. P. 30, and, when that motion was denied, timely appealed. An appeal from the denial of that motion was entered in the Appeals Court on September 11, 2019, and voluntarily withdrawn with prejudice by Kyricopoulos.