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SJC-13097

JOSÉ L. NEGRÓN vs. THOMAS A. TURCO.

December 9, 2021.

Supreme Judicial Court, Superintendence of inferior courts.

The petitioner, José L. Negrón, appeals from a judgment of a single justice of this court denying his petition for relief pursuant to G. L. c. 211, § 3.<sup>1</sup> We affirm.

Negrón sought interlocutory relief from "undue delays" and "unreasonable decision[s]" by judges in two civil cases pending in the Superior Court in which he is a plaintiff. In his two-page petition filed in the county court, Negrón also requested that action on his petition be postponed due to circumstances related to the COVID-19 pandemic. A single justice of this court denied the petition without a hearing and without reference to Negrón's request for postponement. Following the entry of judgment, Negrón filed a "motion for leave to proceed with interlocutory appeal" in the county court, along with an affidavit in support and multiple exhibits, which the county court apparently treated as notice of appeal from the judgment of the single justice.

The case is now before us pursuant to S.J.C. Rule 2:21, as amended, 434 Mass. 1301 (2001), which requires a petitioner seeking relief from an interlocutory ruling of the trial court to "set forth the reasons why review of the trial court decision cannot adequately be obtained on appeal from any final adverse

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<sup>1</sup> The pleading filed in the county court was entitled "Interlocutory Appeal et al. Civil Rights Effectuated." The single justice treated the filing as a petition pursuant to G. L. c. 211, § 3.

judgment in the trial court or by other available means." Negrón has failed to meet that burden here.

In his memorandum before this court, Negrón offers additional argument regarding his claims that the interlocutory rulings in his civil cases have been unreasonable and deprived him of substantial rights, with particular emphasis on a claim that one of the Superior Court judges involved in his cases is biased against him and therefore erred in denying Negrón's motion for recusal. Absent from Negrón's memorandum, however, is the required showing that review of these interlocutory rulings, including the denial of the motion for recusal, is unavailable on appeal from an adverse judgment or by other means.<sup>2</sup>

Negrón could have sought -- and in some instances did seek -- relief from the Superior Court's interlocutory rulings before a single justice of the Appeals Court. See Negrón v. Commissioner of Correction, 483 Mass. 1034, 1034 & n.4 (2020) (noting that Negrón was pursuing relief before Appeals Court single justice from order requiring service of process by certified mail). Review by an Appeals Court single justice is available in circumstances like these at the time such rulings are made, see G. L. c. 231, § 118, first par., and Negrón will also have the right to challenge those rulings on appeal to the Appeals Court from any adverse final judgment in the Superior Court. See Ainooson v. Department of Correction, 474 Mass. 1007, 1007 (2016). Likewise, with respect to Negrón's claim of judicial bias, we have held that such a claim can be adequately addressed on appeal from an adverse final judgment. See Murphy v. Superior Court, 484 Mass. 1006, 1007 (2020); Jian Jiang v. Qilun Liu, 481 Mass. 1024, 1024 (2019).

Negrón having failed to meet his burden under rule 2:21 to set forth 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," we affirm the judgment of the single justice denying relief.

Judgment affirmed.

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<sup>2</sup> Negrón also faults the single justice of this court for failing to acknowledge his request for postponement and for ruling on his petition without providing him the opportunity to file additional briefing. Given our disposition of this matter based on the petitioner's failure to meet his burden under rule 2:21, we do not reach these issues.

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

José L. Negrón, pro se.