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SJC-13118

CARE AND PROTECTION OF A MINOR.

October 21, 2021.

Supreme Judicial Court, Superintendence of inferior courts.

The petitioner, the biological father of a child who was the subject of a care and protection proceeding in the Juvenile Court, appeals from a judgment of the county court denying, without a hearing, his petition for relief under G. L. c. 211, § 3. In 2018, after the child was found to be in need of care and protection, the petitioner filed a notice of appeal, but failed to take the necessary steps to perfect the appeal, and in 2019, the appeal was dismissed by a judge in the Juvenile Court. After his parental rights were terminated in 2019, he filed no notice of appeal at all. The petitioner has filed two previous petitions for extraordinary relief, essentially seeking a determination that he had a right to a jury trial in the care and protection proceeding. See Care & Protection of a Minor, 484 Mass. 1015, 1015 n.2 (2020), cert. dismissed sub nom. Liviz v. Supreme Judicial Court of Mass., 141 S. Ct. 1129 (2021); Care & Protection of a Minor, 478 Mass. 1015 (2017). In the instant petition, the petitioner sought an order that the Juvenile Court assemble the record in the care and protection proceeding and transmit it to the Appeals Court. In his brief, the petitioner offers no reason why the denial of extraordinary relief was an error of law or abuse of discretion or why he should be entitled to revive his 2018 appeal (from the care and protection adjudication) or take an appeal from the 2019 termination of his parental rights at this late date, nor do we discern any on this record.¹ See, e.g., Boisvert v. Commonwealth, 487 Mass. 1027,

¹ The petitioner suggests in his brief, without factual or legal support, that most of the Justices of this court are

1028 (2021) (denial of relief under G. L. c. 211, § 3, reviewed for clear error of law or abuse of discretion).

As noted, this is the third time the petitioner has attempted to invoke our general superintendence power in this matter. We have clearly advised him that extraordinary relief from this court is not required when there is an adequate alternative remedy, and that his claimed right to a jury trial was an issue that could and should have been raised in the ordinary appellate process. Care & Protection of a Minor, 484 Mass. at 1015, citing Adoption of Douglas, 473 Mass. 1024, 1026 (2016). See, e.g., Pinney v. Commonwealth, 487 Mass. 1029, 1030 (2021) (petitions under G. L. c. 211, § 3, are not substitutes for ordinary trial and appellate process). There is simply no basis for extraordinary relief here. Indeed, as stated, the petitioner does not even attempt to argue in his brief that any such basis exists. Moreover, as in Care & Protection of a Minor, 484 Mass. at 1015, the petitioner has failed to provide an adequate record of the proceedings and has failed to "name as respondents and make service upon all parties to the proceedings before the lower court," a matter of fundamental fairness to those parties. Id., quoting S.J.C. Rule 2:22, 422 Mass. 1302 (1996). Given the absence of any basis for extraordinary relief and the petitioner's repeated failure to comply with the rudiments of appellate procedure, the petitioner is hereby on notice that future baseless attempts to invoke our extraordinary power to obtain relief relating to the care and protection and parental termination proceedings in the Juvenile Court may result in the imposition of sanctions.

Judgment affirmed.

The case was submitted on briefs.
The petitioner, pro se.

obligated to recuse themselves in this case and that therefore a quorum cannot be obtained. That is incorrect. The single justice who denied relief on the petition before us did not participate in this decision, see Mass. R. A. P. 24 (c), as appearing in 481 Mass. 1654 (2019), but no other Justice is required to recuse because of prior rulings.