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SJC-13185

FEMI E. ISIJOLA vs. BOARD OF APPEAL ON MOTOR VEHICLE  
LIABILITY POLICIES AND BONDS.

December 16, 2021.

Supreme Judicial Court, Superintendence of inferior courts.

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

In September 2020, the registry of motor vehicles (registry) notified Isijola that it was suspending his driver's license on the basis that the New Hampshire Department of Safety, Division of Motor Vehicles, had suspended his driver's license in New Hampshire.<sup>1</sup> Isijola appealed to the Board of Appeal on Motor Vehicle Liability Polices and Bonds (board), which upheld the registry's decision. Isijola then commenced an action in the Superior Court pursuant to G. L. c. 30A, § 14, in

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<sup>1</sup> Pursuant to G. L. c. 90, § 22 (c), if the Registrar of Motor Vehicles

"receives official notice . . . that a resident of the commonwealth . . . has had a license or right to operate suspended or revoked in another state . . . the registrar shall not issue a license to said person, and if a license has already been issued the registrar shall immediately revoke said license, without a prior hearing. However, if said license or right to operate is subsequently reinstated by such other state, . . . the person may apply to the registrar for reinstatement of said license in the commonwealth."

March 2021, seeking judicial review of the board's decision. The board filed a motion to stay the Superior Court case on the basis that Isijola's appeal of the New Hampshire suspension was still pending in that State and that resolution of the appeal would affect the issues presented in the Massachusetts proceedings. A judge allowed the motion to stay. The judge also declined to act on Isijola's motion for summary judgment, pending resolution of the New Hampshire matter.

Isijola thereafter filed a petition for interlocutory review with a single justice of the Appeals Court pursuant to G. L. c. 231, § 118, first par. A single justice denied the petition.<sup>2</sup> Undeterred, Isijola then filed his G. L. c. 211, § 3, petition in the county court, again seeking relief from the trial court rulings. In his petition he argued that he had no other avenue for appellate review and he asked the court to vacate the stay and to allow his motion for summary judgment. The single justice denied the petition without a hearing.

The case is now before us pursuant to S.J.C. Rule 2:21, as amended, 434 Mass. 1301 (2001), which requires a showing that "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." S.J.C. Rule 2:21 (2). Isijola has not made, and cannot make, such a showing. He has already sought interlocutory review of the trial court rulings in question under G. L. c. 231, § 118, first par., and has been denied relief by a single justice of the Appeals Court. He is not entitled as of right to additional review under this court's extraordinary power of general superintendence at this stage. See Guzzi v. Secretary of Pub. Safety, 450 Mass. 1016, 1016 (2007) ("Although his petition pursuant to G. L. c. 231, § 118, was denied, G. L. c. 211, § 3, does not provide a second opportunity as a matter of right for interlocutory relief"). See also Greco v. Plymouth Sav. Bank, 423 Mass. 1019, 1019-1020 (1996) ("Review under G. L. c. 211, § 3, does not lie where review under c. 231, § 118, would suffice").

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

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<sup>2</sup> The petitioner's subsequent notice of appeal from the single justice's decision was struck, properly (and by a different single justice), on the basis that there is no right to appeal from the denial of a petition filed pursuant to G. L. c. 231, § 118, first par. See McMenimen v. Passatempo, 452 Mass. 178, 189-193 (2008).

Judgment affirmed.

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

Femi E. Isijola, pro se.

Nicole B. Capridli, Assistant Attorney General, for the respondent.