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SJC-13255

KELECHI LINARDON vs. SECRETARY OF HOUSING AND ECONOMIC DEVELOPMENT.

July 26, 2022.

Supreme Judicial Court, Superintendence of inferior courts.
Mandamus. Practice, Civil, Action in nature of mandamus.

The plaintiff, Kelechi Linardon, appeals from a judgment of a single justice of this court denying her emergency complaint for relief in the nature of mandamus. We affirm.

In the complaint, Linardon requested that the single justice compel the Secretary of Housing and Economic Development (secretary) to award her certain benefits under the federally-funded Emergency Rental Assistance Program (ERAP) and to assist her in locating a home with suitable accommodations under the Americans with Disabilities Act. The single justice denied relief without a hearing, stating that "[r]elief in the nature of mandamus is extraordinary, and is granted in the discretion of the court where no other relief is available. See Vinnie v. Commonwealth, 475 Mass. 1011 (2016)."

This is at least the third time that Linardon has sought relief in this court. See Linardon v. Boston Housing Auth., 487 Mass. 1006 (2021); Linardon v. United States Dep't of Hous. & Urban Dev., 485 Mass 1005, 1005 (2020). This is also not the first time that, in appealing to this court, Linardon "has refiled, in lieu of a brief, the exact same document that she had filed in the county court, . . . [making] no argument that the single justice erred or abused his discretion in denying [relief]." Boston Housing Auth., supra at 1006-1007 (affirming single justice's denial of G. L. c. 211, § 3, petition).

Here, to the extent Linardon was aggrieved by the secretary's denial of her application for ERAP benefits, Linardon had an alternative means by which to seek relief, namely, to request administrative review of the denial. See Iverson v. Building Inspector of Dedham, 354 Mass. 688, 690 (1968) (mandamus relief not available unless petitioner has "no available administrative remedy"). See also Chawla v. Appeals Court, 482 Mass. 1001, 1002, cert. denied, 140 S. Ct. 521 (2019) ("It would be hard to find any principle more fully established in our practice than the principle that neither mandamus nor certiorari is to be used as a substitute for ordinary appellate procedure or used at any time when there is another adequate remedy" [quotation omitted]). Here, Linardon has not demonstrated that this alternative avenue for seeking relief was either unavailable or inadequate.¹

Moreover, even if this alternative avenue for relief did not exist, mandamus relief would not be appropriate here. It is well settled that "[a] complaint in the nature of mandamus is 'a call to a government official to perform a clear cut duty,' and the remedy is limited to requiring action on the part of the government official.'" Boston Med. Ctr. Corp. v. Secretary of Executive Office of Health & Human Servs., 463 Mass. 447, 469-470 (2012), quoting Simmons v. Clerk-Magistrate of the Boston Div. of the Hous. Court Dep't, 448 Mass. 57, 59-60 (2006). "Mandamus is not an appropriate remedy to obtain a review of the decision of public officers who have acted and to command them to act in a new and different manner." Bos. Med. Ctr. Corp., supra at 470, quoting Harding v. Commissioner of Ins., 352 Mass. 478, 480 (1967). Here, the secretary acted on Linardon's application for benefits. The fact that Linardon disagrees with

¹ The secretary has submitted to this court a copy of a letter of ineligibility for emergency housing payment assistance, dated March 3, 2022, in connection with Linardon's application for benefits. The letter sets forth the process for seeking administrative review. Linardon has moved to strike the secretary's filing (in the form of a letter to the court clerk) to which the letter of ineligibility is attached, on the basis that the secretary's letter to the court clerk does not conform to the requirements of the rules of appellate procedure for the filing of motions. Linardon also subsequently filed a response and opposition to the secretary's letter, in which she disputes the authenticity of the attachment. For the reasons discussed infra, mandamus relief would not be appropriate here, even if this specific alternative avenue for relief were not available to Linardon.

the secretary's determination does not entitle her to mandamus relief.²

In sum, the single justice neither erred nor abused his discretion in denying Linardon's request for mandamus relief.

Judgment affirmed.

The case was submitted on briefs.

Kelechi Linardon, pro se.

Cassandra Bolaños, Assistant Attorney General, for the defendant.

² The secretary also argues in his letter that Linardon's request for mandamus relief is moot because the Department of Housing and Community Development stopped accepting new applications for ERAP benefits on April 16, 2022, due to the imminent exhaustion of Federal ERAP funds. Given our disposition of this matter, we do not reach this argument.