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SJC-13263

IMRE KIFOR vs. COMMONWEALTH & others.¹

June 22, 2022.

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

Imre Kifor appeals from a judgment of a single justice of this court denying his complaint for relief in the nature of certiorari pursuant to G. L. c. 249, § 4. We affirm.

Through this action in the nature of certiorari, Kifor sought to correct alleged errors in judicial proceedings in the Middlesex Division of the Probate and Family Court Department and in the Appeals Court. The single justice denied relief "on the grounds that [Kifor] has an adequate, alternate remedy in the normal appellate process." Kifor timely appealed.

After his appeal was entered in this court, Kifor filed an "SJC Rule 2:21 Memorandum" in an attempt to comply with S.J.C. Rule 2:21, as amended, 434 Mass. 1301 (2001). That rule applies when a single justice of this court "denies relief from an interlocutory ruling in the trial court." Id. Regardless of whether the rule applies to all of Kifor's claims, it is apparent from Kifor's submissions and from the record below that the single justice neither erred nor abused his discretion in denying relief.

"The purpose of a civil action in the nature of certiorari is to correct errors that 'are not otherwise reviewable by motion or by appeal.'" Johnson v. Commonwealth, 463 Mass. 1006,

¹ Middlesex Division of the Probate and Family Court Department, Barbara A. Duchesne, and Cynthia S. Oulton.

1007 (2012), quoting G. L. c. 249, § 4. Kifor "bears the burden to allege and demonstrate the absence or inadequacy of other remedies." Kim v. Rosenthal, 473 Mass. 1029, 1030 (2016). He has not carried that burden here.

Kifor concedes that other appellate remedies are available to him, by acknowledging that, despite some delay, his appeals from various decisions and orders of the Probate and Family Court are now docketed and pending in the Appeals Court. Kifor's blanket assertions that such review will be inadequate are insufficient to demonstrate that he is entitled to review pursuant to G. L. c. 249, § 4.

Kifor has also availed himself of the procedures set forth in G. L. c. 231, § 118, first par., to obtain review of certain interlocutory orders by a single justice of the Appeals Court. Where an Appeals Court single justice has denied relief under that statute, Kifor "is not entitled as of right to any further interlocutory review." Padmanabhan v. Cooke, 483 Mass. 1024, 1025 (2019).

The single justice did not err or abuse his discretion in denying relief under G. L. c. 249, § 4.

Judgment affirmed.

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

Imre Kifor, pro se.