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SJC-13265

STANLEY D. HOWARD vs. WARREN K. HOWARD.

October 6, 2022.

Supreme Judicial Court, Superintendence of inferior courts.

Stanley D. Howard (petitioner) appeals from a judgment of the county court denying, without a hearing, his petition for relief under G. L. c. 211, § 3. The petitioner sought relief from an order of a Superior Court judge dismissing, in part, his complaint against his brother, Warren K. Howard. Specifically, the petitioner requested that the single justice either vacate the partial dismissal of his complaint or authorize an immediate interlocutory appeal.¹ We discern no basis to disturb the decision of the single justice. The petitioner is not entitled to extraordinary relief, as he has an adequate remedy in the ordinary process, namely, an appeal from any final judgment that eventually enters in the Superior Court case.² "Our general

¹ Before filing his petition, the petitioner attempted to appeal to the Appeals Court. That appeal was dismissed on the grounds that the order was interlocutory and that the doctrine of present execution did not permit an immediate appeal. The petitioner could have applied for further appellate review after his appeal was dismissed, see Rasheed v. Appeals Court, 434 Mass. 1012, 1012 (2001), but did not do so. He also did not file a petition for review pursuant to G. L. c. 231, § 118, first par.

² In his brief before us, the petitioner also requests relief relating to the dismissal of an action in the Probate and Family Court. Passing the question whether this request was before the single justice, the petitioner similarly had a remedy

superintendence power under G. L. c. 211, § 3, is extraordinary and to be exercised sparingly, not as a substitute for the normal appellate process or merely to provide an additional layer of appellate review after the normal process has run its course." Harrington v. Deutsche Bank Nat'l Trust Co., 484 Mass. 1041, 1042 (2020), quoting Votta v. Police Dep't of Billerica, 444 Mass. 1001, 1001 (2005). The single justice properly denied relief under G. L. c. 211, § 3.³

Judgment affirmed.

The case was submitted on briefs.
Stanley D. Howard, pro se.
Sheryl Furnari for the respondent.

in the ordinary appellate process and is not entitled to extraordinary relief.

³ In addition, because the petitioner was seeking relief from an interlocutory ruling of the trial court, he was obligated to file a memorandum pursuant to S.J.C. Rule 2:21, as amended, 434 Mass. 1301 (2001), "set[ting] forth the 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." He did not do so. This presents a further reason not to disturb the judgment of the single justice.