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SJC-13302

ROY DUMAS vs. COMMONWEALTH.

December 29, 2022.

Supreme Judicial Court, Superintendence of inferior courts.

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

In 2006, a jury in the Superior Court convicted the petitioner of kidnapping, rape of a child with force, and threatening to commit a crime. The petitioner's convictions were affirmed on direct appeal, see Commonwealth v. Dumas, 78 Mass. App. Ct. 1120 (2011), and he did not seek further appellate review. In 2014, the petitioner filed a motion for a new trial, pro se. The motion was denied, and the petitioner then filed an amended motion for a new trial. Thereafter, counsel was appointed to represent the petitioner, and counsel filed a third motion for a new trial. That motion was denied. The petitioner appealed, and the Appeals Court affirmed the trial court's ruling in an unpublished decision. See Commonwealth v. Dumas, 91 Mass. App. Ct. 1103 (2017). The petitioner applied for further appellate review, and the application was denied. See Commonwealth v. Dumas, 476 Mass. 1112 (2017). Five years later, the petitioner filed the instant petition in the county court, pursuant to G. L. c. 211, § 3, arguing that the Appeals Court erred in its 2017 decision affirming the denial of his third new trial motion. The petitioner requested that the matter be remanded to the Appeals Court for renewed consideration of the same legal arguments that it had previously rejected.

"Our general 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." Votta v. Police Dep't of Billerica, 444 Mass. 1001, 1001 (2005). Here, the petitioner, by his own admission, has already received appellate review of the arguments at issue. "The fact that he did not receive relief does not render the ordinary appellate process inadequate for purposes of G. L. c. 211, § 3." Tavares v. Commonwealth, 481 Mass. 1044, 1044 (2019).

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

Judgment affirmed.

The case was submitted on briefs.

Roy Dumas, pro se.

Donna-Marie Haran, Assistant District Attorney, for the Commonwealth.