

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Sandman v. Commonwealth

482 Mass. 1018 (2019) · Decided May 17, 2019

SUMMARY

The Massachusetts Supreme Judicial Court affirmed the denial of Jordan P. Sandman's petition under G. L. c. 211, § 3. The court held that extraordinary relief was unavailable because Sandman could raise his challenges to the probation revocation and new criminal charges through direct appeals or appropriate trial-court motions.

CASE DETAILS

COURT	Supreme Judicial Court of Massachusetts
JURISDICTION	Massachusetts
DECIDED	May 17, 2019
DISPOSITION	affirmed
PROCEDURAL POSTURE	Sandman appealed from a single justice's judgment denying his petition for extraordinary relief under G. L. c. 211, § 3.
STANDARD OF REVIEW	The court reviewed whether the single justice erred or abused his discretion in denying extraordinary relief under G. L. c. 211, § 3.
PRECEDENTIAL VALUE	Published Massachusetts Supreme Judicial Court per curiam opinion
PARTIES	Jordan P. Sandman v. Commonwealth

TOPICS

post-conviction relief appellate procedure criminal procedure right to counsel due process

PRACTICE AREAS

criminal procedure appellate procedure post-conviction relief

QUESTIONS PRESENTED

- Whether extraordinary relief under G. L. c. 211, § 3, was available when Sandman could raise his challenges through a direct appeal from the probation revocation order.
- Whether Sandman could use a G. L. c. 211, § 3, petition to challenge issues arising from the new 2018 criminal charges when direct appeal or appropriate trial-court motions remained available.

HOLDINGS

1. Relief under G. L. c. 211, § 3, is properly denied when the petitioner has other adequate avenues for relief, and the petitioner bears the burden of demonstrating the absence or inadequacy of those remedies.
2. A direct appeal is an appropriate method for seeking review of a probation revocation order; therefore, a G. L. c. 211, § 3, petition is not appropriate where that direct appellate remedy is available.
3. Issues relating to new criminal charges may be raised in a direct appeal from any adverse judgment or, as appropriate, through motions in the trial court rather than through extraordinary relief under G. L. c. 211, § 3.

KEY QUOTATIONS

"Relief under G. L. c. 211, § 3, is properly denied where, as here, "there are other routes by which the petitioning party may adequately seek relief."" (121 N.E.3d at 1289)

"As the petitioner, it was Sandman's burden, pursuant to G. L. c. 211, § 3, "to demonstrate the absence or inadequacy of other remedies."" (121 N.E.3d at 1289)

FACTUAL BACKGROUND

In September and October 2016, Sandman pleaded guilty to several offenses and received sentences that included concurrent probationary terms. While serving probation, he was charged with new crimes in June 2018 and stipulated to both a probation violation and dangerousness at a July 11, 2018, hearing. He then sought relief under G. L. c. 211, § 3, asserting constitutional violations involving due process and the right to counsel.

PROCEDURAL HISTORY

Sandman pleaded guilty in 2016 to multiple offenses and received sentences including probation. After he was charged with new crimes in June 2018, he stipulated to a probation violation and dangerousness at a probation revocation and dangerousness hearing. He filed a G. L. c. 211, § 3, petition challenging the resulting sentence and the new charges; the single justice denied the petition without a hearing. The Supreme Judicial Court affirmed, noting that he had filed a motion for reconsideration in the District Court and a notice of appeal from the probation revocation proceedings.

DISPOSITION

affirmed

CASES CITED

- Sabree v. Commonwealth, 432 Mass. 1003, 1003, 732 N.E.2d 275 (2000)
- Russell v. Nichols, 434 Mass. 1015, 1016, 750 N.E.2d 1008 (2001)
- Commonwealth v. Christian, 429 Mass. 1022, 1022-1023, 712 N.E.2d 573 (1999)

OPINION

PER CURIAM.

*1289**1018The petitioner, Jordan P. Sandman, 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 2016, Sandman pleaded guilty to several offenses and was sentenced to two concurrent terms of two years in a house of correction and two **1019concurrent terms of four years' probation. In October 2016, he pleaded guilty to several other offenses and was sentenced to seven months in a house of correction, deemed served, and the balance suspended for two years. Then, in June 2018, while serving the probationary portion of the 2016 sentences, he was charged with new crimes. On July 11, 2018, at a probation revocation and dangerousness hearing, Sandman stipulated to the probation violation as well as to dangerousness pursuant to G. L. c. 276, § 58A. He then filed, in October 2018, his G. L. c. 211, § 3, petition, seeking relief from the sentence imposed as a result of the probation violation as well as from the new, June 2018 charges.¹ He argued, generally, that several of his constitutional rights have been violated, including his right to due process under the Fifth Amendment to the United States Constitution and his right to counsel under the Sixth Amendment to the United States Constitution. The single justice denied the petition without a hearing. Relief under G. L. c. 211, § 3, is properly denied where, as here, "there are other routes by which the petitioning party may adequately seek relief." *Sabree v. Commonwealth*, 432 Mass. 1003, 1003, 732 N.E.2d 275 (2000). As the petitioner, it was Sandman's burden, pursuant to G. L. c. 211, § 3, "to demonstrate the absence or inadequacy of other remedies." *Russell v. Nichols*, 434 Mass. 1015, 1016, 750 N.E.2d 1008 (2001). Sandman has not met this burden. Indeed, he has made no effort to do so, other than to summarily state in the conclusion of his brief that "[t]here is in fact no other avenue for relief." There is no reason why Sandman could not raise the issues that he raises here in an appeal from the probation revocation order. See, e.g., *Commonwealth v. Christian*, 429 Mass. 1022, 1022-1023, 712 N.E.2d 573 (1999) (direct appeal is appropriate method for seeking review of probation revocation order).² To the extent that Sandman raises arguments related to the new, 2018 charges, there is no reason why he cannot, similarly, raise those issues in a direct appeal from any adverse judgment (or, as may be applicable, through appropriate motions in the trial court). The single justice did not err or abuse his discretion in denying relief under G. L. c. 211, § 3. He also filed, in the District Court, a motion for reconsideration of the revocation of his probation and the resulting sentence, which was denied. In point of fact, the District Court dockets for the two 2016 cases in which Sandman's probation was revoked reflect that Sandman filed a notice of appeal shortly after his motion for reconsideration was denied. There is no indication that assembly of the record is yet complete or that the appeals have been entered in the Appeals Court.