

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Tyree v. Commonwealth

469 Mass. 1013 (2014) · No. SJC-11633 · Decided October 1, 2014

SUMMARY

The Supreme Judicial Court of Massachusetts affirmed the denial of William M. Tyree’s petition under G. L. c. 211, § 3, arising from a 1979 ex parte proceeding and its alleged effect on his ability to present a third-party culprit defense. The court held that Tyree had not shown the absence of another adequate route for relief and declined to consider issues not raised in the county court.

CASE DETAILS

COURT	Supreme Judicial Court of Massachusetts
JURISDICTION	Massachusetts
DECIDED	October 1, 2014
DOCKET	SJC-11633
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a single justice's denial of a petition under G. L. c. 211, § 3, seeking extraordinary relief and permission to pursue further appellate or postconviction proceedings.
STANDARD OF REVIEW	Whether the single justice erred or abused her discretion in denying extraordinary relief under G. L. c. 211, § 3; relief is unavailable where another adequate route exists.
PRECEDENTIAL VALUE	Published opinion
PARTIES	William M. Tyree v. Commonwealth

TOPICS

- post-conviction relief
- appellate procedure
- criminal procedure
- appellate jurisdiction
- evidence

PRACTICE AREAS

- Criminal procedure
- Postconviction relief
- Appellate procedure
- Capital litigation
- Evidence

QUESTIONS PRESENTED

1. Whether the single justice properly treated Tyree's filing as a petition under G. L. c. 211, § 3, rather than an application under G. L. c. 278, § 33E.
2. Whether Tyree was entitled to extraordinary relief under G. L. c. 211, § 3, based on alleged defects in the 1979 ex parte proceeding and resulting limitations on his third-party culprit defense.
3. Whether issues not raised in the county court could be considered on appeal.

HOLDINGS

1. The single justice properly treated Tyree's filing as a petition under G. L. c. 211, § 3, rather than an application under G. L. c. 278, § 33E, because Tyree was not seeking appellate review of a trial court ruling on a postconviction motion.
2. Tyree was not entitled to extraordinary relief because he failed to demonstrate that there was no other adequate route by which he could seek relief.
3. The court need not consider issues that Tyree raised for the first time on appeal from the single justice's decision.

FACTUAL BACKGROUND

Tyree was convicted of first-degree murder in 1980. His claims concerned a 1979 Commonwealth petition under G. L. c. 211, § 3, which challenged a trial judge's order arising from a probable cause hearing and resulted in the voiding of complaints against a witness whom Tyree claimed committed the murder. Tyree asserted that the petition hearing was ex parte and that the resulting ruling, together with an in limine order, prevented him from presenting a third-party culprit defense. The court noted that Tyree could have raised these issues on direct appeal or in prior postconviction proceedings.

PROCEDURAL HISTORY

Tyree was convicted of murder in the first degree in 1980, and the Supreme Judicial Court affirmed the conviction. After numerous postconviction motions and county court petitions, Tyree filed a multifaceted motion seeking permission for a second direct appeal, a successive new trial motion, or nunc pro tunc appellate relief. The single justice treated the filing as a petition under G. L. c. 211, § 3, rather than an application under G. L. c. 278, § 33E, and denied it. The Supreme Judicial Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Tyree, 387 Mass. 191 (1982)
- Lykus v. Commonwealth, 432 Mass. 160, 161-162 (2000)
- Carvalho v. Commonwealth, 460 Mass. 1014 (2011)

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