

MASSACHUSETTS SUPREME JUDICIAL COURT

Joseph Jabir Pope & another v. Commonwealth

SJC-12977 · No. SJC-12977 · Decided April 29, 2021

SUMMARY

The Massachusetts Supreme Judicial Court considered appeals from the denial of petitions seeking stays of execution of criminal sentences pending decisions on motions for a new trial. The court held that Pope's appeal was moot because his motion for a new trial had been denied, and affirmed the denial of Hamilton's requested stay because he had not shown exceptional circumstances warranting a stay. The court also addressed the applicability of the gatekeeper provision in G. L. c. 278, § 33E.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
JURISDICTION	Massachusetts
DECIDED	April 29, 2021
DOCKET	SJC-12977
DISPOSITION	affirmed
PROCEDURAL POSTURE	Pope and Hamilton appealed from a single justice's denial of their petitions under G. L. c. 211, § 3, seeking stays of execution of their sentences pending decisions on their second motions for a new trial.
STANDARD OF REVIEW	The court reviewed the single justice's denial of relief under G. L. c. 211, § 3, for abuse of discretion or clear error of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Joseph Jabir Pope, Floyd Hamilton v. Commonwealth

TOPICS

criminal procedure appellate procedure post-conviction relief sentencing mootness

PRACTICE AREAS

criminal procedure appellate procedure post-conviction relief sentencing

QUESTIONS PRESENTED

1. Whether the gatekeeper provision of G. L. c. 278, § 33E, required the defendants to obtain authorization from a single justice before seeking stays of execution under these circumstances.
2. Whether Pope's appeal from denial of a stay was moot after his motion for a new trial was denied.
3. Whether Hamilton was entitled to a stay of execution pending the Superior Court's decision on his motion for a new trial.
4. What standard governed review of the single justice's denial of relief under G. L. c. 211, § 3.

HOLDINGS

1. The defendants were not required to file a gatekeeper application before requesting a stay from the single justice because their G. L. c. 211, § 3, petitions functioned as new motions for stays under Mass. R. A. P. 6(b)(1), rather than appeals from the Superior Court's stay rulings.
2. Pope's appeal was moot because his motion for a new trial had been denied, eliminating the pending event for which the stay had been sought.
3. A judge has inherent authority to stay execution of a sentence pending a motion for a new trial in exceptional circumstances, but the COVID-19 pandemic alone does not constitute an exceptional circumstance; Hamilton was required to make a particularized showing and failed to do so.
4. The denial of relief under G. L. c. 211, § 3, is reviewed for abuse of discretion or clear error of law.

KEY QUOTATIONS

"In the circumstances of this case, we do not consider the defendants' G. L. c. 211, § 3, petition to be an attempt to appeal per se from the judges' adverse rulings on the motions for a stay, but the functional equivalent of a new motion for a stay pursuant to rule 6 (b) (1)."

"A judge considering such a motion must consider three factors: "(1) the defendant's likelihood of success on appeal, (2) certain security factors [e.g., the risk of flight and the danger to any other person or to the community], and (3) certain risks associated with the pandemic.""

"Rather, a defendant must show that exceptional circumstances exist in his or her particular case."

FACTUAL BACKGROUND

Pope and Hamilton were convicted of first-degree murder and armed robbery after separate retrials in cases arising from 1984 indictments. Decades later, each filed a second motion for a new trial and sought a stay of sentence while that motion was pending. Pope's motion was denied before appellate review, while Hamilton did not make a particularized showing that exceptional circumstances warranted a stay pending resolution of his motion.

PROCEDURAL HISTORY

The defendants were convicted of murder in the first degree and armed robbery after separate retrials following a mistrial at their joint first trial. The Supreme Judicial Court affirmed both convictions after plenary review under G. L. c. 278, § 33E. Each defendant later filed a second motion for a new trial and a motion to stay execution of sentence; Superior Court judges denied the stays. A single justice denied relief under G. L. c. 211, § 3, and

denied reconsideration. By the time of appellate review, Pope's new-trial motion had been denied, while Hamilton's remained pending.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Hamilton, 411 Mass. 313, 327 (1991)
- Commonwealth v. Pope, 406 Mass. 581, 582 (1990)
- Lykus v. Commonwealth, 432 Mass. 160, 162 (2000)
- Commonwealth v. Davis, 410 Mass. 680, 683-684 (1991)
- Commonwealth v. Charles, 466 Mass. 63, 77 n.16 (2013)
- Garcia v. Commonwealth, 486 Mass. 341, 343 (2020)
- Care & Protection of Isabelle, 459 Mass. 1006, 1006 (2011)
- Rasten v. Northeastern Univ., 432 Mass. 1003, 1003 (2000), cert. denied, 531 U.S. 1168 (2001)
- Commonwealth v. Nash, 486 Mass. 394, 402-412 (2020)
- Christie v. Commonwealth, 484 Mass. 397, 400-401 (2020)
- Commonwealth v. Harris, 487 Mass. , (2021)
- Commonwealth v. Charles, 466 Mass. 63, 74 (2013)
- Commonwealth v. McLaughlin, 431 Mass. 506, 518 (2000)