

MASSACHUSETTS SUPREME JUDICIAL COURT

Watson v. Clerk-Magistrate of District Court Department

453 Mass. 1007 (2009) · Decided February 20, 2009

SUMMARY

The Supreme Judicial Court of Massachusetts affirmed the denial of Lawrence Watson's petition for extraordinary relief concerning alleged failures to docket an appeal, assemble and transmit an appellate record, and provide court documents and recordings. The court held that these matters should generally be addressed through appropriate trial-court motions and the ordinary appellate process. It remanded the case to the county court to ensure that the promised documents and audiotapes were made available to Watson.

OPINION

PER CURIAM.

Lawrence Watson (petitioner) appeals from a judgment of a single justice of this court denying his petition for relief pursuant to G. L. c. 211, § 3, and *1008G. L. c. 249, § 5. He had sought relief from the alleged failure of the clerk-magistrate of the Dorchester Division of the District Court Department to (1) docket his notice of appeal from the dismissal of a legal malpractice action he had commenced; (2) assemble the record for appeal and transmit it to the Appeals Court in an action through which he had sought unsuccessfully to expunge the record of a criminal complaint against him that was dismissed; and (3) provide him with copies of documents and audiotape recordings of unspecified court proceedings in which he has been involved.

Lawrence Watson, pro se. Annapurna Balakrishna, Assistant Attorney General, for the defendant. With respect to the petitioner's first two claims, the record before us contains no indication that he has taken appropriate steps in the trial court to rectify the alleged errors. A party claiming inaction in the docketing of notices of appeal or the assembly and transmission of records on appeal may seek relief through appropriate motions filed in the trial court, and through the normal appellate process in the event those motions are denied; there are no grounds for filing a petition for extraordinary relief in this court.

See *Roe v. Rosencratz*, 443 Mass. 1021 (2005); *Santiago v. Commonwealth*, 442 Mass. 1045 (2004); *Loftfield v. Ferreira*, 440 Mass. 1012 (2003); *Lu v. Boston Div. of the Hous. Court Dep't*, 432 Mass. 1005, 1005-1006 (2000); *Jordan v. Superior Court*, 426 Mass. 1019 (1998).

Accordingly, as to the petitioner's first two claims, the judgment of the single justice is affirmed. The single justice also correctly declined to grant extraordinary superintendence relief with

respect to the third claim. Claims such as this — i.e., that a litigant's attempts to obtain documents, tapes, and transcripts of a court proceeding have been thwarted — are also remediable through appropriate steps taken in the trial court and in the normal course of appeal if necessary, and typically not through a petition for extraordinary relief in this court.

The petitioner failed to demonstrate in the record he put before the single justice, and has put before this court, that these alternative remedies are unavailable to him or are inadequate. That said, at the oral argument of this case the assistant attorney general, on behalf of the respondent, represented to the court that all the items the petitioner seeks have been assembled and will be made available to him at the District Court.

At the court's urging, the assistant attorney general agreed to work with the petitioner to schedule a mutually agreeable time for him to obtain the materials at the District Court. We are hopeful that this will bring to a conclusion what has been an ongoing but entirely avoidable dispute between the parties over access to basic court files, a dispute that has spawned multiple unnecessary appearances before this court.

We affirm the single justice's judgment denying relief under G. L. c. 211, § 3. In addition, we remand the case to the county court where the single justice will be in a position to ensure that the petitioner gets access to the court documents and audiotapes he has been promised.

The parties shall promptly report to the single justice once the materials have been produced, or shall explain within thirty days of the rescript why that has not happened. The single justice will issue such further orders as may be necessary. So ordered.