

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Field v. Commonwealth

473 Mass. 1011 (2015) · No. SJC-11817 · Decided December 1, 2015

SUMMARY

The Massachusetts Supreme Judicial Court affirmed the denial of Eunice Field’s petition for extraordinary relief under G. L. c. 211, § 3. The court held that Field had an adequate alternative remedy through appeal from any adverse ruling on her motion for a new trial, including claims concerning attorney-client and psychotherapist-patient privileges.

CASE DETAILS

COURT	Supreme Judicial Court of Massachusetts
JURISDICTION	Massachusetts
DECIDED	December 1, 2015
DOCKET	SJC-11817
DISPOSITION	affirmed
PROCEDURAL POSTURE	Field appealed from a single justice's judgment denying, without a hearing, her petition for extraordinary relief under G. L. c. 211, § 3, challenging interlocutory discovery and witness-testimony orders entered in connection with her motion for a new trial.
STANDARD OF REVIEW	The court reviewed the denial of extraordinary relief under G. L. c. 211, § 3 and determined whether the single justice erred or abused her discretion. Under S.J.C. Rule 2:21, interlocutory relief requires showing that review cannot adequately be obtained after a final adverse judgment or by another available remedy.
PRECEDENTIAL VALUE	Published Massachusetts Supreme Judicial Court opinion
PARTIES	Eunice Field v. Commonwealth

TOPICS

- interlocutory appeal
- appellate procedure
- attorney client privilege
- privilege
- ineffective assistance

PRACTICE AREAS

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

QUESTIONS PRESENTED

1. Whether extraordinary relief under G. L. c. 211, § 3 was available to challenge interlocutory orders requiring trial counsel to testify and requiring production of mental-health treatment records.
2. Whether the asserted attorney-client and psychotherapist-patient privileges justified immediate appellate intervention rather than review after a final adverse ruling on the motion for a new trial.

HOLDINGS

1. Extraordinary relief under G. L. c. 211, § 3 was not warranted because Field had an adequate alternative remedy: any erroneous admission of evidence in violation of her claimed privileges could be remedied on appeal from an adverse ruling on her motion for a new trial.
2. The single justice neither erred nor abused her discretion by denying Field's petition for extraordinary relief without a hearing.

KEY QUOTATIONS

“Field has an adequate alternative remedy; if any evidence is admitted at the hearing in violation of Field's privileges, the error can be remedied on appeal from any adverse ruling on the motion for a new trial.” (473 Mass. at 1011)

“The single justice neither erred nor abused her discretion by denying extraordinary relief.” (473 Mass. at 1011)

FACTUAL BACKGROUND

Field was convicted of murder in the first degree and had a motion for a new trial pending. She alleged that trial counsel was ineffective for failing to consult a psychiatric expert and failing to seek suppression of statements allegedly rendered involuntary by her mental state. In preparing for the motion, the trial judge ordered trial counsel to testify and ordered Field to produce mental-health treatment records considered by her posttrial mental-health expert.

PROCEDURAL HISTORY

After being convicted of murder in the first degree in the Superior Court, Field filed a motion for a new trial asserting ineffective assistance of counsel and later supplemented it with a claim that counsel failed to seek suppression of involuntary statements. The trial judge ordered trial counsel to testify and ordered Field to produce certain mental-health treatment records. Field sought relief under G. L. c. 211, § 3; a single justice denied the petition without a hearing, and the Supreme Judicial Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Sliech-Brodeur, 457 Mass. 300, 329 (2010)

- Murray v. Karzon, 423 Mass. 1007, 1008 (1996)

OPINION

PER CURIAM.

NOTICE: All slip opinions and orders are subject to formal revision and are superseded by the advance sheets and bound volumes of the Official Reports. If you find a typographical error or other formal error, please notify the Reporter of Decisions, Supreme Judicial Court, John Adams Courthouse, 1 Pemberton Square, Suite 2500, Boston, MA, 02108-1750; (617) 557- 1030; SJCReporter@sjc.state.ma.us.

SJC-11817 EUNICE FIELD vs. COMMONWEALTH. December 1, 2015. Supreme Judicial Court, Superintendence of inferior courts. Practice, Criminal, Assistance of counsel, Admissions and confessions, Voluntariness of statement. Mental Health. Witness, Expert, Privilege. Privileged Communication. Evidence, Expert opinion, Medical record, State of mind, Voluntariness of statement, Communication between patient and psychotherapist.

Eunice Field appeals from a judgment of a single justice of this court denying, without a hearing, her petition for relief under G. L. c. 211, § 3. We affirm. After a trial in the Superior Court, Field was convicted of murder in the first degree. Her appeal from that conviction is pending in this court and has been stayed pending resolution of her motion for a new trial.

In that motion, Field argued that trial counsel deprived her of effective assistance by failing to consult with a psychiatric expert. In a supplemental motion, she argued that she was further deprived of effective assistance when trial counsel failed to move to suppress her statements to the police, in part on the ground that her mental state rendered her statements involuntary.

On the Commonwealth's motions, the trial judge ordered that trial counsel be summonsed to testify at the hearing on Field's motion¹ and that Field provide the Commonwealth with certain discovery, including any of her mental health treatment records that were considered by her posttrial mental health expert in preparing his report. Field's G. L. 1 In doing so, the judge stated that any action on assertions of the attorney-client privilege would be taken on a question-by-question basis.

2 c. 211, § 3, petition followed, seeking relief from these orders. The case is before us pursuant to S.J.C. Rule 2:21, as amended, 434 Mass. 1301 (2001), which requires an appellant seeking relief from interlocutory rulings of the trial court to "set forth the reasons why review of the trial court decision cannot adequately be obtained on appeal from any final adverse judgment in the trial court or by other available means."

Field asserts that requiring trial counsel to testify would violate her attorney-client privilege and that production of her mental health treatment records would violate her psychotherapist- patient

privilege. Field has an adequate alternative remedy; if any evidence is admitted at the hearing in violation of Field's privileges, the error can be remedied on appeal from any adverse ruling on the motion for a new trial.² Claims of privilege are routinely addressed in the ordinary appellate process.

See *Commonwealth v. Sliech-Brodeur*, 457 Mass. 300, 329 (2010) (defendant's prior attorney's testimony violated attorney-client privilege); *Murray v. Karzon*, 423 Mass. 1007, 1008 (1996) (extraordinary relief under G. L. c. 211, § 3, not warranted despite claim that disclosure would cause irreparable breach of confidentiality of records).

The single justice neither erred nor abused her discretion by denying extraordinary relief. Judgment affirmed. The case was submitted on the papers filed, accompanied by a memorandum of law. Elizabeth Caddick for the petitioner. ² If the motion for a new trial is denied, Field's appeal therefrom presumably will be consolidated with her direct appeal from her conviction.