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SJC-13993

CHARLES MARGIS vs. NICOLE MARGIS.

October 26, 2026.

Supreme Judicial Court, Superintendence of inferior courts.

The petitioner, Chares Margis, appeals from a judgment of a single justice of this court denying his petition pursuant to G. L. c. 211, § 3. We affirm.

The petitioner and the respondent, Nicole Margis, are the divorced parents of two unemancipated children. Pursuant to the parties' December 2021 agreement, which was incorporated into their January 2022 judgment of divorce, the parties had shared physical and legal custody of the children. In April 2023, the respondent filed in the Probate and Family Court a complaint for modification of the then-existing child custody order. The petitioner subsequently filed his own complaint for modification in June 2023. In the ensuing months, the trial court issued several temporary orders related to custody of the children, including orders in June 2025 and September 2025 that gave the respondent sole physical custody of the children.¹

In October 2025, the petitioner filed a petition with a single justice of the Appeals Court pursuant to G. L. c. 231, § 118, first par., seeking interlocutory review of the trial court's September 2025 order. The single justice granted the petition in part in November 2025 and directed the trial court

¹ Additionally, in April 2025, a judge in the Probate and Family Court issued an order finding the petitioner in contempt for failing to comply with the parameters of the then-current custody order.

judge to "reassess the custody and parenting arrangements for the children, and to enter a superseding order, together with appropriate findings." The trial court judge thereafter issued a subsequent order, and the petitioner again sought interlocutory review in the Appeals Court pursuant to G. L. c. 231, § 118, first par., in January 2026. A single justice denied the petition, as well as the petitioner's subsequent supplemental petition, in February 2026. The petitioner's subsequent notice of appeal from the single justice's denial of the petitions was struck on the basis that there is no right to appeal from an order of a single justice denying relief pursuant to G. L. c. 231, § 118, first par.

The petitioner then filed his G. L. c. 211, § 3, petition, on April 29, 2026, in which he sought relief from the same interlocutory trial court orders for which he had already sought relief in the Appeals Court. In the petition he also, among other things, sought an order staying enforcement of the temporary custody orders from which he was seeking relief and an order that further trial court proceedings take place before a different judge. The single justice denied the petition.

The case is now before us pursuant to S.J.C. Rule 2:21, as amended, 434 Mass. 1301 (2001), which requires a showing that "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." S.J.C. Rule 2:21 (2). The petitioner has not made, and cannot make, such a showing. To the extent that the petitioner seeks relief from the same temporary trial court orders for which he already sought relief pursuant to G. L. c. 231, § 118, first par., he is not entitled to such relief. The petitioner appears to be arguing that review pursuant to G. L. c. 211, § 3, is proper because he has exhausted other avenues for interlocutory review. This argument, however, misapprehends the law. That the petitioner was unsuccessful in the Appeals Court -- i.e., that he ultimately did not receive the relief sought -- does not render that avenue for relief inadequate or otherwise entitle him to relief pursuant to G. L. c. 211, § 3. See, e.g., Bishay v. Superior Court Dep't of the Trial Court, 487 Mass. 1012, 1012-1013 (2021). See also Matter of Children, 479 Mass. 1008, 1009 (2018) ("[Petitioner] has already sought interlocutory review of the trial judge's rulings under G. L. c. 231, § 118, first par., and has been denied relief by a single justice of the Appeals Court. He is not entitled to any additional review at this juncture").

Moreover, to the extent that the petitioner argues that relief pursuant to G. L. c. 211, § 3, is warranted to prevent the immediate and ongoing harm resulting, in his view, from the trial court's temporary orders, these "contentions do not render inadequate an appeal in the ordinary course." Matter of an Impounded Case (No. 5), 497 Mass. 1038, 1039 (2026), and cases cited (custody proceedings are reviewable in ordinary appellate process). Finally, the petitioner appears to be raising issues in his appeal to this court that were not raised in the county court (at least some of which relate to trial court proceedings that have occurred while his appeal has been pending here). Where those issues were not raised before the single justice, we need not consider them. See Carvalho v. Commonwealth, 460 Mass. 1014, 1014 (2011), and cases cited.

The single justice did not err or abuse her discretion in denying relief under G. L. c. 211, § 3.

Judgment affirmed.

The case was submitted on the papers filed, accompanied by a memorandum of law.

Kirsten A. Zwicker & Alyssa M. Kelly for the petitioner.
Sheila M. Tierney for the respondent.