

NOTICE: Summary decisions issued by the Appeals Court pursuant to its rule 1:28, as amended by 73 Mass. App. Ct. 1001 (2009), are primarily directed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, such decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 1:28 issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent. See Chace v. Curran, 71 Mass. App. Ct. 258, 260 n.4 (2008).

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

17-P-1440

WARREN C. TYLER

vs.

BOSTON MEDICAL CENTER & others.<sup>1</sup>

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

The plaintiff, Warren C. Tyler, appeals from the dismissal of his medical malpractice complaint in view of Tyler's failure to post a bond. We affirm.

On appeal, Tyler first argues that a Superior Court judge improperly declined to appoint counsel to represent him. Where, as here, the only interest at stake "is a mere property interest," there is no right to appointed counsel. Genninger v. Genninger, 418 Mass. 732, 735 (1994). No exceptional circumstances warrant deviation from this principle in this case.

Second, Tyler alleges that it was error for a different Superior Court judge to deny his motion to reduce the \$6,000

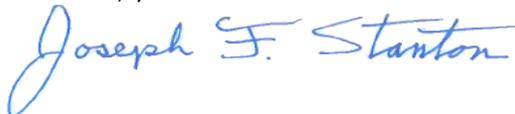
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<sup>1</sup> Sharon Falk, Kalev Freeman, Jeffrey Salerno, Joseph Kahn, Linda Mason, Pieter Noordzij, Glenn Barest, Dina Beaton, and John McMahan.

bond required by G. L. c. 231, § 60 B, which resulted in the dismissal of his case. An appeal from an order denying a request for a reduction in bond should be brought to a single justice of this court within seven days of the order's entry. G. L. c. 261, § 27 D. See Perez v. Bay State Ambulance & Hosp. Rental Servs., Inc., 413 Mass 670, 678 (1992). Tyler did not notice an appeal from the order denying his motion to reduce the bond as provided for in G. L. c. 261, § 27 D. Instead, almost two months after the order entered, Tyler filed a petition with the single justice of this court under G. L. c. 231, § 118, first par. A single justice denied Tyler's petition on September 1, 2017. There is no right of appeal from the single justice's order.<sup>2</sup> See McMenimen v. Passatempo, 452 Mass. 178, 189-190 (2008). Therefore, the issue of § 60B's bond requirement is not properly before us.

Judgment affirmed.

By the Court (Blake,  
Wendlandt & McDonough,  
JJ.<sup>3</sup>),



Clerk

Entered: October 16, 2018.

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<sup>2</sup> A different single justice properly struck Tyler's notice of appeal.

<sup>3</sup> The panelists are listed in order of seniority.