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SJC-13848

PAUL J. LOMBARDI, JR. vs. COMMONWEALTH.

February 3, 2026.

Supreme Judicial Court, Superintendence of inferior courts.

The petitioner, Paul J. Lombardi, Jr., appeals from a judgment of a single justice of this court denying, without a hearing, his petition for relief under G. L. c. 211, § 3. We affirm.

The petitioner has been charged in the District Court with operating while under the influence of liquor and other offenses. He moved to dismiss the charges on the ground that the police officer who stopped his vehicle and arrested him was acting outside the officer's territorial jurisdiction. A District Court judge denied the motion to dismiss, and the petitioner sought relief under G. L. c. 211, § 3, from that ruling. The single justice denied relief without addressing the merits.

The petitioner has filed a memorandum and appendix pursuant to S.J.C. Rule 2:21 (2), as amended, 434 Mass. 1301 (2001), which requires the petitioner 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." The petitioner has not met his burden. Except where a defendant raises a double jeopardy claim of substantial merit, which is not the case here, "[t]he denial of a motion to dismiss in a criminal case is not appealable until after trial, and . . . G. L. c. 211, § 3, may not be used to circumvent that rule." Wallace v. Commonwealth, 492 Mass. 1012, 1012, 1013 n.5 (2023), quoting Soucy v. Commonwealth, 470

Mass. 1025, 1025 (2015). If the petitioner is convicted of any offense, he will have the opportunity to raise his claim on direct appeal. See Commonwealth v. Savage, 430 Mass. 341, 347 (1999) (reversing conviction of operating while under influence due to extraterritorial arrest). Because the petitioner has this remedy in the ordinary appellate process, he is not entitled to extraordinary relief under G. L. c. 211, § 3.

Judgment affirmed.

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

Peter E. Padula for the petitioner.