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SJC-13869

RYAN DUARTE vs. BRISTOL DIVISION OF THE PROBATE AND FAMILY COURT DEPARTMENT.

May 27, 2026.

Supreme Judicial Court, Superintendence of inferior courts.

The petitioner, Ryan Duarte, appeals from a judgment in the county court denying his petition seeking relief pursuant to G. L. c. 211, § 3, as well as relief in the nature of mandamus. In his petition, Duarte alleges that he "tendered" a filing to the Bristol Division of the Probate and Family Court Department (Probate and Family Court) requesting to change his legal name from "RYAN DUARTE" to "Ryan Duarte," because the "continued use of the all-capitalized variant constitutes an ens legis (legal fiction) inconsistent with [p]etitioner's living identity and right to self-determination." Duarte further alleges that "[t]he Probate Clerk refused to docket the [filing], stating that the correction from 'RYAN DUARTE' to 'Ryan Duarte' was not a legal name change." In his petition to the single justice, Duarte requested that the single justice either effectuate the name change or order the Probate and Family Court to accept and docket the underlying filing. The single justice denied relief, concluding that Duarte's allegations did not rise to the level of a "failure of justice" requiring mandamus relief and did not present "exceptional circumstances" warranting exercise of this court's superintendence power under G. L. c. 211, § 3. This appeal followed.

Duarte has submitted a memorandum and appendix pursuant to S.J.C. Rule 2:21, as amended, 434 Mass. 1301 (2001), which concerns an appeal from a judgment of the single justice "den[ying] relief from a challenged interlocutory ruling in the trial court." Rule 2:21 does not apply here, as Duarte is

seeking relief from the alleged failure to docket his filing, rather than an interlocutory ruling of the trial court. See Santos v. Commonwealth, 480 Mass. 1020, 1020 (2018); Loftfield v. Ferreira, 440 Mass. 1012, 1012 (2003). Nevertheless, it is clear that the single justice did not commit a clear error of law or otherwise abuse his discretion in denying relief.

As an initial matter, while Duarte provided the single justice with a copy of the name change petition and a receipt reflecting that he sent a parcel to the Probate and Family Court via certified mail on October 10, 2025, he did not provide an affidavit or other evidence to support his assertion that the clerk told him the filing would not be docketed due to the nature of his name change request.<sup>1</sup> See Davis v. Tabachnick, 425 Mass. 1010, 1010, cert. denied, 522 U.S. 982 (1997) ("the plaintiffs' claim that the judge ordered the register not to accept a notice of appeal or any other pleading is not supported by proof in the record and cannot be considered by this court"). In any event, this court has repeatedly indicated that a party alleging that a clerk failed to docket a filing should seek relief in the first instance from a judge of that court. See Watson v. Clerk-Magistrate of Dorchester Div. of Dist. Court Dep't, 453 Mass. 1007, 1008 (2009), and cases cited; Davis, supra at 1010 ("The plaintiffs could have filed a motion in the Probate Court to compel the register of that court to accept for filing their notice of appeal and to process that appeal"). Cf. Santos, 480 Mass. at 1020 ("Any question concerning the actual receipt and filing of the motion is something that should itself be resolved in the trial court in the first instance"). Absent any indication that Duarte sought such relief, he has not demonstrated that he is entitled to superintendence relief from this court under G. L. c. 211, § 3, or relief in the nature of mandamus. See Watson, supra.

Judgment affirmed.

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

Ryan Duarte, pro se.

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<sup>1</sup> Although Duarte submitted a document entitled "AFFIDAVIT OF LIBERTY" in the single justice session, this filing contains legal arguments rather than factual averments. Moreover, while the receipt and name change petition each have date stamps, the stamps reflect the date that these documents were received by the county court, not the Probate and Family Court.