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SUPREME JUDICIAL COURT RULES

Order in re: COVID-19 (coronavirus) pandemic

Supreme Judicial Court Order regarding transfer of certain single justice matters during the COVID-19 pandemic

ADOPTED DATE:

06/03/2020

EFFECTIVE DATE:

06/08/2020

UPDATES:

Issued June 3, 2020, effective June 8, 2020 (https://www.mass.gov/media/2140086/download)

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Order

Following this court's decisions in Christie v. Commonwealth, 484 Mass. 397 (2020), and Committee for Public Counsel Servs. v. Chief Justice of the Trial Court, 484 Mass. 431 (2020), the Supreme Judicial Court for Suffolk County has received numerous petitions from prisoners, pretrial detainees, and committed individuals seeking review of various orders issued by the District Court, the Boston Municipal Court, and the Superior Court, including bail reconsideration orders, pretrial detention orders based on dangerousness, and orders on motions to stay execution of sentences. Not every such petition requires a decision from a single justice of this court in the first instance. To alleviate the extraordinary burden that these petitions have placed on our single justices, while at the same time ensuring that all such petitions receive the full and fair consideration that they deserve, the court hereby orders as follows.

1. Petitions for review of bail orders, bail revocation orders, pretrial detention orders based on dangerousness, and detention orders pending probation violation proceedings, that are ordinarily heard and determined by single justices of this court shall continue to be filed in the county court but may be transferred to the Appeals Court for resolution by its single justices in the first instance. See G. L. c. 211, § 4A, and G. L. c. 211A, § 12. See also Fadden v. Commonwealth, 376 Mass. 604, 607-608 (1975). These matters will then be heard and determined by the Appeals Court single justices "in accordance with the same rules, practices and procedures which would govern if the same matters were heard and determined by a single justice" of this court. See Appeals Court Rule 2:01.
2. Any person aggrieved by the denial of a District Court, Boston Municipal Court, or Juvenile Court judge to admit him or her to bail on personal recognizance without surety, pursuant to G. L. c. 276, § 58, will continue to be free to exercise his or her statutory right to petition the Superior Court for review of the order, in accordance with G. L. c. 276, § 58, seventh and eighth pars., but will not be required to do so before seeking review of the District Court, Boston Municipal Court, or Juvenile Court order in this court. Until further order of this court, the single justices of this court, and the single justices of the Appeals Court on cases transferred to them, will review such orders of the District Court, Boston Municipal Court, and Juvenile Court even when a defendant does not first seek review in the Superior Court.
3. Likewise, any person subject to a pretrial dangerousness hearing in the District Court, Boston Municipal Court, or Juvenile Court who is aggrieved by the denial of the judge to admit him or her to bail on personal recognizance with or without surety, pursuant to G. L. c. 276, § 58A, will continue to be free to exercise his or her statutory right to petition the Superior Court for review of the order, in accordance with G. L. c. 276, § 58A (7), but will not be required to do so before seeking review in this court. The single justices of this court, and the single justices of the Appeals Court on cases transferred to them, will, until further order of this court, review such orders of the District Court, Boston Municipal Court, and Juvenile Court even when a defendant does not first seek review in the Superior Court.
4. Pursuant to Mass. R. Crim. P. 31 and Mass. R. A. P. 6 (b), motions to stay executions of sentences should ordinarily be sought in the first instance in the trial court, and may thereafter be sought from a single justice of the appellate court to which the appeal is being taken. Any party aggrieved by an order of the single justice may then appeal to the appellate court in which the appeal is pending, and the order of the appellate court shall be final. Nothing in Christie v. Commonwealth or Committee for Public Counsel Servs. v. Chief Justice of the Trial Court authorizes parties to depart from these

established procedures, and therefore the procedures shall continue to apply notwithstanding the pandemic. Accordingly, petitions to single justices of this court seeking stays of executions of sentences (or review of such orders issued by others) in cases that will be or are being appealed to the Appeals Court, may be transferred to the trial court, to the single justice of the Appeals Court, or to a panel of the Appeals Court, as the circumstances of each case dictate.

5. Pursuant to Mass. R. Crim. P. 29, motions to revise or revoke sentences must be timely filed in the trial court, and a party aggrieved by the trial court's ruling on such a motion may appeal to the Appeals Court, or in an appropriate case to the Supreme Judicial Court. Nothing in Christie v. Commonwealth or Committee for Public Counsel Servs. v. Chief Justice of the Trial Court authorizes parties to depart from this established procedure, and therefore the procedure shall continue to apply notwithstanding the pandemic. Accordingly, petitions to single justices of this court seeking to revise or revoke sentences (or to review such orders issued by others) in cases that would be or are being appealed to the Appeals Court may be transferred to the trial court or to the Appeals Court, as the circumstances of each case dictate.

6. Decisions of the District Court or the Boston Municipal Court civilly committing individuals pursuant to G. L. c. 123, §§ 7-8 and 35, are ordinarily reviewable in the first instance by the respective Appellate Divisions of those courts, and decisions of the Juvenile Court civilly committing individuals pursuant to G. L. c. 123, §§ 7-8 and 35, are ordinarily reviewable by the Appeals Court. See G. L. c. 123, § 9 (a); G. L. c. 231, § 108; and Rule 11 of the Uniform Trial Court Rules for Civil Commitment Proceedings for Alcohol and Substance Abuse Disorders (Trial Court Rule XIII). Nothing in this court's recent decisions departs from those procedures, and therefore the procedures shall continue to apply notwithstanding the pandemic. Accordingly, petitions to single justices of this court seeking review of civil commitment decisions of the District Court, Boston Municipal Court, or Juvenile Court may be transferred to the respective Appellate Division or to the Appeals Court, as the circumstances of each case dictate.

7. This court and its single justices may also transfer to the Appeals Court or to its single justices, or to any other appropriate court, any other matters that this court has the power to transfer and that the Appeals Court or other court can decide.

8. Any transferred matters that are to be heard and determined by a panel of the Appeals Court shall proceed in accordance with the Massachusetts Rules of Appellate Procedure, subject to orders that the court may issue suspending the requirements or provisions of any of those rules in a particular case (Mass. R. A. P. 2), including orders to reduce the time for filing briefs and similar orders that the court deems appropriate on a case-by-case basis. Any transferred matters that are to be heard and determined by a single justice of the Appeals Court shall proceed in accordance with the rules and standing orders of the Appeals Court, including, e.g., Appeals Court Rule 2:01 and the standing order governing motions to stay executions of sentences; provided that the Appeals Court's procedures shall not be implemented in any way that would result in a litigant receiving less process than he, she, or it would receive if the matter were heard and determined by a single justice of this court. As Appeals Court Rule 2:01 provides, any decision by an Appeals Court single justice on a transferred matter may be appealed to a panel of the Appeals Court in the same manner and to the same extent that a decision by one of this court's single justices could be appealed to the full court.

9. Nothing in this Order shall prevent a single justice of the Appeals Court, in his or her discretion, from reporting a transferred matter to a panel of the Appeals Court if the circumstances warrant. Nothing in this Order shall prevent the Appeals Court or its single justices from reporting a matter back to this court if the circumstances warrant, e.g., if a case presents a novel issue, or is otherwise of such public or legal significance that it ought to be determined by this court (see G. L. c. 211A, §§ 10-12, and Mass. R. A. P. 11 [f] and 27.1 [e]). Nor shall anything in this Order preclude the Supreme Judicial Court from transferring back to itself a matter that it has transferred to the Appeals Court or to a single justice of the Appeals Court (see G. L. c. 211, § 4A).
10. This Order shall take effect on June 8, 2020. The Order will remain in effect until it is rescinded or replaced by another order of this court.

Downloads

Supreme Judicial Court Order regarding transfer of certain single justice matters during the COVID-19 pandemic

(https://www.mass.gov/doc/supreme-judicial-court-order-regarding-transfer-of-certain-single-justice-matters-during-the/download)

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UPDATES:

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