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SJC-10136

CITIZENS COMMITTEE FOR JUDICIAL OVERSIGHT AND GOVERNMENTAL REFORM
& another¹ vs. ATTORNEY GENERAL & others.²

May 16, 2008.

Practice, Civil, Appeal.

The petitioners appeal from an order of a single justice of this court denying a series of motions, including a motion to file an untimely appeal and a motion "for suspension of the rules." We affirm.

The petitioners commenced an action in the county court, purportedly pursuant to G. L. c. 214, § 2, seeking, among other things, a declaration that art. 7 of the Massachusetts Declaration of Rights "preempts" art. 48, The Initiative, of the Amendments to the Massachusetts Constitution. After the petition was denied, the petitioners filed a motion for reconsideration. On reconsideration, the single justice allowed the judgment denying relief to stand. The petitioners then filed a notice of appeal, but failed timely to perfect their appeal and, as a result, their appeal was never entered on the full court docket. Thereafter, the petitioners filed in the county court several motions: for leave to file an untimely appeal; for "suspension of the rules"; for leave to file nonconforming papers; and for an emergency hearing, all of which the single justice denied. The petitioners then filed a request for clarification, which was denied, as well as a second notice of appeal.

This appeal, unlike their previous one, was properly perfected. The sole issue it properly raises is the correctness of the denial of the motions filed after they failed properly to perfect their initial appeal. The petitioners instead address,

¹ Charles F. Tynan.

² Secretary of the Commonwealth, the Governor, Speaker of the House of Representatives, and the President of the Senate.

in their brief, the substantive merits of the issues raised in their petition before the single justice and that they attempted to raise in their initial appeal. The only relief they seek is the same relief sought therein (e.g., that the court find that art. 7 preempts art. 48). Those issues are not properly before the court.

Judgment affirmed.

Charles F. Tynan, pro se.

Peter Sacks, Assistant Attorney General, for the defendants.