

Appendix A – SJC Decision

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO. SJ-2020-0580

Appeals Court
No. 2019-P-0748

Suffolk Superior Court
No. 1884CV03192

JOACHIM CARLO SANTOS MARTILLO and ANTHONY Z. BONO

v.

UNKNOWN DEFENDANTS TO BE NAMED LATER

JUDGMENT

This matter came before the Court, Lowy, J., on a petition for writ of certiorari pursuant to G. L. c. 249, § 5.

The requisite elements for availability of certiorari are: (1) a judicial or quasi-judicial proceeding, (2) from which there is no other reasonably adequate remedy, (3) to correct a substantial error of law apparent on the record, and (4) that has resulted in manifest injustice to the plaintiff or an adverse impact on the real interests of the general public. See State Board of Retirement v. Woodward, 446 Mass. 698, 703-704 (2006). The petitioners have not demonstrated that their petition satisfied the last three elements.

Upon consideration thereof, it is **ORDERED** that the petition for writ of certiorari be, and the same hereby is, **DENIED** without hearing.

By the Court (Lowy, J.)

/s/ Maura S. Doyle
Maura S. Doyle, Clerk

Entered: August 28, 2020

**Appendix C – Appeals Court Memorandum and
Order on Motion**

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

19-P-748

BONO & ANOTHER¹

vs.

UNKNOWN DEFENDANTS.

MEMORANDUM AND ORDER ON MOTION FOR LEAVE TO FILE AN AMENDED

BRIEF

The plaintiffs, Anthony Z. Bono and Joachim Carlos Santos Martillo, appealed from a Superior Court order dismissing their complaint. In a memorandum and order pursuant to Rule 1:28, we affirmed the judgment of the Superior Court on May 26, 2020. Pursuant to Mass. R. App. P. 16 (n), the plaintiffs have submitted a motion, supported by a memorandum, seeking leave to file an amended brief. The plaintiffs wish to correct and clarify certain arguments and the issues presented. Having reviewed the plaintiffs' memorandum in support of their motion to amend, we conclude that they have presented good cause to amend their brief. The plaintiffs' motion therefore is allowed and the amended brief and appendix are accepted for filing.

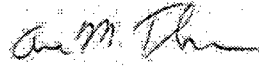
The plaintiffs also have filed a motion for reconsideration or modification of decision based on their amended brief. See

¹ Joachim Carlos Santos Martillo.

Mass. R. App. P. 27 (a). We have reviewed the amended brief and appendix. The arguments raised are in all material respects the same as those raised in the original brief, and we conclude that they are without merit for the same reasons set forth in our memorandum and order dated May 26, 2020. The plaintiffs' motion to reconsider therefore is denied.

So ordered.

By the Court (Vuono, Lemire &
McDonough, JJ.²),



Assistant Clerk

Entered: June 19, 2020

² The panelists are listed in order of seniority.

Appendix F – Decision on Appeal

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

19-P-748

ANTHONY Z. BONO & another¹vs.

UNKNOWN DEFENDANTS.

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

The plaintiffs, Anthony Z. Bono and Joachim Carlos Santos Martillo, appeal from the judgment dismissing their complaint. According to the docket entries in the trial court, on October 12, 2018, the plaintiffs filed a complaint in the Superior Court. We note that the plaintiffs have not provided us with a copy of the complaint. The docket further indicates that a few days later, on October 19, 2018, a show-cause order as to why the case should not be dismissed issued. The plaintiffs responded to the show-cause order and, on November 19, 2018, they filed a "bill in equity." This document has not been provided to us either. Another show-cause order issued and a judge of the Superior Court conducted a hearing on December 17, 2018. At the conclusion of that hearing, the judge expressed

¹ Joachim Carlos Santos Martillo.

his intention to dismiss this case for a variety of reasons, which he stated on the record. The hearing transcript has not been provided to us; however, the judge issued a written decision, in which he briefly memorialized some of those reasons.

The judge reasoned that, by their "bill in equity," Bono and Martillo were attempting to:

"appeal . . . a 2016 decision of the United States District Court for the Eastern District of Virginia, rendered by a jurist labeled by plaintiffs as the 'Federal District Court Judge from Hell.' . . . In that 25-page decision [which also does not seem to be in the present appendix] . . . , the federal district judge reviewed a decision by the United States Patent and Trademark Office rejecting the patent application at issue here. The plaintiff in the federal case was RealVirt LLC, an entity not yet a party to [this] lawsuit, but which the individual plaintiffs seek to add as a co-plaintiff by naming it as such in their Bill in Equity. The federal district judge concluded that the individual plaintiffs in this case had no legal interest in the application for that patent, and therefore their corporate entity RealVirt had failed to establish its standing to challenge the action of the United States Patent and Trademark Office. Much of the substance of the Bill in Equity is a vehement disagreement with that conclusion of the federal district court judge. However, plaintiffs long ago appealed that decision to the United States Court of Appeals for the Federal Circuit, which issued a one-word affirmance in August 2018, less than two months before plaintiffs filed this lawsuit, apparently seeking a second bite at that particular apple."

The judge further explained that the matter could be dismissed on any number of grounds, including: (i) Federal jurisdiction over patent matters is exclusive; (ii) Massachusetts does not recognize a cause of action to "quiet" or "try title" of a

patent application; (iii) it is "unlikely" that Massachusetts has personal jurisdiction over the Director of the United States Patent and Trademark Office; (iv) res judicata and/or collateral estoppel arising from the Federal judgment mentioned in the judge's decisional memorandum; (v) failure to present a "short and plain statement of the claim"; and (vi) failure to state a claim.

To the extent we understand the plaintiffs' arguments, they assert that they stated a claim for adverse possession, or "reversion," of a patent application. However, because the plaintiffs have not provided us with an adequate record, it is not possible for us to determine whether such a claim has been stated or whether we have subject matter jurisdiction.² "It is the obligation of the appellant[] to include in the appendix those [materials] which are essential for review of the issues raised on appeal." Shawmut Community Bank, Nat'l Ass'n v. Zagami, 30 Mass. App. Ct. 371, 372-373 (1991), S.C., 411 Mass.

² We note that a single justice of this court issued an order on May 21, 2019, requiring the plaintiffs to file "[o]n or before 6/5/19, . . . a memorandum, not to exceed 7 double-spaced pages, showing cause as to why this court has jurisdiction over this matter . . . where the claims at issue apparently seek relief as to the ownership of a patent which is subject to the exclusive jurisdiction of the federal courts."

807 (1992). See Mass. R. A. P. 16 (a) (4), as appearing in 481 Mass. 1628 (2019);³ Mass. R. A. P. 18, as appearing in 481 Mass. 1637 (2019). Given the state of the record and the briefing, we do not attempt to determine whether the complaint was properly dismissed. Cf. Chokel v. Genzyme Corp., 449 Mass. 272, 280 (2007) (where motion missing from record on appeal "we do not review the propriety of its denial").

Judgment affirmed.

By the Court (Vuono, Lemire &
McDonough, JJ.),

Joseph F. Stanton

Clerk

Entered: May 26, 2020.

³ We cite to the Massachusetts Rules of Appellate Procedure in effect as of the date the Appendix was filed. The rules were wholly revised, effective March 1, 2019. See Reporter's Notes to Rule 1, Mass. Ann. Laws Court Rules, Rules of Appellate Procedure, at 446 (LexisNexis 2019).

⁴ The panelists are listed in order of seniority.

**Additional material
from this filing is
available in the
Clerk's Office.**