

**United States Court of Appeals  
For the First Circuit**

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No. 05-2796

THOMAS ROSA, JR.,  
Petitioner, Appellant,

v.

MICHAEL T. MALONEY,  
Respondent, Appellee.

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APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

[Hon. Nancy Gertner, U.S. District Judge]

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Before

Boudin, Chief Judge,  
Torruella and Dyk,\* Circuit Judges.

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Kathleen M. McCarthy, was on brief, for appellant.  
Susanne G. Reardon, Assistant Attorney General, Criminal  
Bureau, with whom Thomas F. Reilly, Attorney General, were on  
brief, for appellee.

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September 7, 2006

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\* Of the Federal Circuit, sitting by designation.

**Per Curiam.** Petitioner Thomas Rosa, Jr. ("Rosa") appeals the district court's denial of his petition for a writ of habeas corpus under 28 U.S.C. § 2254. Rosa claims that his Massachusetts state court conviction for murder in the first degree and kidnaping, Commonwealth v. Rosa, 422 Mass. 18 (1996), should be set aside on two grounds. First, Rosa alleges that post-conviction DNA testing casts doubt on his original conviction. Second, the prosecution lost two pieces of evidence before DNA-testing could be performed. The district court found that neither ground was a viable challenge to Rosa's conviction. After carefully reviewing the parties' arguments, we affirm substantially for the reasons set out by the district court in its thorough and well-reasoned memorandum and order. We find no arguments requiring further discussion on appeal.

**Affirmed.**