

United States Court of Appeals For the First Circuit

No. 08-1751

ROBERT FOXWORTH,
Petitioner, Appellee,

v.

PETER ST. AMAND,
Respondent, Appellant.

Before

**Lynch, Chief Judge,
Selya and Siler,* Circuit Judges.**

ORDER FOR CERTIFICATION OF A QUESTION TO THE SUPREME JUDICIAL COURT OF MASSACHUSETTS

Entered: June 29, 2009

For the reasons stated in our opinion of even date in this case, submitted with this order, we certify the following question to the Supreme Judicial Court of Massachusetts:

In considering the petitioner's application, filed in 2000, for leave to obtain further appellate review of the 1996 Massachusetts Appeals Court decision, did the Supreme Judicial Court reopen the finality of the petitioner's 1992 conviction in 2002?

*Of the Sixth Circuit, sitting by designation.

This court certifies that this question is determinative of a claim in this case and that it appears to us that there is no controlling precedent in either the decisions or rules of practice of the Supreme Judicial Court.

In responding to this question, we invite any additional guidance about relevant Massachusetts law or practice that the Supreme Judicial Court may wish to offer.

The clerk of this court is to forward, under the official seal of this court, a copy of the certified question and our opinion in this case, along with the briefs and trial transcripts filed by the parties, to the Supreme Judicial Court of Massachusetts. Pending the receipt of a response, we shall retain appellate jurisdiction.

By the Court
/s/ Richard C. Donovan, Clerk
United States Court of Appeals
for the First Circuit

[cc: Ms. Susan Mellen, Clerk, Massachusetts Supreme Judicial Court, Hon. Rya W. Zobel, Ms. Sarah Thornton, Clerk, United States District Court for the district of Massachusetts, Mr. John M. Thompson, Ms. Susan G. Reardon & Ms. Linda J. Thompson.]