

**03-8661 SMITH V. MASSACHUSETTS**

DECISION BELOW: 788 NE2d 977

LOWER COURT CASE NUMBER: 00-P-1215

**QUESTION PRESENTED:**

1. Should this Court grant certiorari to directly review Smith's case and decide the question that, constrained by the habeas corpus standard of review, it did not reach in the recent case of *Price v. Vincent*, 538 U.S. 634 (2003)? That is, whether the double jeopardy clause's prohibition against successive prosecutions is violated where the judge unequivocally rules that the defendant is not guilty because the government's evidence is insufficient but later reverses her finding of not guilty?
2. There is a split of opinion among the United States Courts of Appeals and among the state courts on the question of whether, in similar situations, trial judges violate the double jeopardy protection against successive prosecution by withdrawing an already-granted verdict of not guilty. Should this Court grant certiorari to clarify its jurisprudence?

CERT. GRANTED 6/14/2004