

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
No. SJ-2026-0314

Bristol Superior Court
No. 9673CR00106

COMMONWEALTH

v.

BRIAN PEIXOTO

**ORDER ALLOWING COMMONWEALTH'S
APPLICATION FOR LEAVE TO APPEAL**

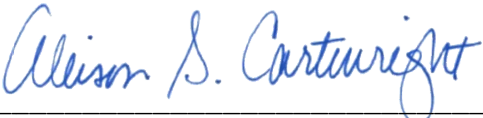
This matter came before the court, Wendlandt, J., on the Commonwealth's timely application pursuant to G. L. c. 278, § 33E, for leave to appeal from the Bristol Superior Court's allowance of the defendant's fourth post-conviction motion for new trial, dated May 26, 2026. The defendant was convicted of murder in the first degree on March 7, 1997. His convictions were affirmed by the Supreme Judicial Court after plenary review on January 25, 2000. See Commonwealth v. Peixoto, 430 Mass. 654 (2000).

Upon consideration, I am of the view that the appeal warrants review by the full court. See Commonwealth v. Smith, 491 Mass. 377, 384 (2023), citing Commonwealth v. Watkins (No. 1), 486 Mass. 801, 803 n.6 (2021) ("[W]here the Commonwealth rather than the defendant petitions the gatekeeper, 'the single

justice's primary focus should be on the meritoriousness or "substantiality" of the Commonwealth's position on appeal and less on the newness of the underlying issue"). Accordingly, it is **ORDERED** that the Commonwealth's application be, and the same hereby, is **ALLOWED** and shall proceed in the Supreme Judicial Court.

It is **FURTHER ORDERED** that the Bristol Superior Court Clerk's Office shall assemble the record in No. 9673CR00106 and transmit it to the Supreme Judicial Court, Clerk's Office for the Commonwealth, John Adams Courthouse, One Pemberton Square, Room 1-400, Boston, Massachusetts, 02108, for determination of the motion for new trial.

By the Court, (Wendlandt, J.)


Allison S. Cartwright, Clerk

Dated: October 2, 2026