

05-996 MARRAMA V. CITIZENS BANK OF MASSACHUSETTS

DECISION BELOW:430 F3d 474

LOWER COURT CASE NUMBER: 04-9009

QUESTIONS PRESENTED:

The First Circuit Court of Appeals affirmed the decision of the Bankruptcy Appellate Panel for the First Circuit which affirmed the decision of the Bankruptcy Court for the District of Massachusetts denying the request of the Petitioner, Robert Louis Marrama, to convert his bankruptcy case from Chapter 7 to Chapter 13. The bankruptcy court held, in essence, that notwithstanding the plain language of the statute and of the legislative history, the right to convert a case from one chapter to another, found in 11 USC §706(a), can be denied in the bankruptcy court's discretion if the bankruptcy court determines that the request was made in bad faith. In a decision that focused on factual determinations, the Bankruptcy Appellate Panel affirmed. The First Circuit Court of Appeals focused on statutory construction and determined that although the legislative history says that the right to convert is "absolute", the right can be denied in circumstances such as those presented in this case.

The question presented, therefore, is whether the right to convert a chapter 7 bankruptcy case to another chapter can be denied notwithstanding the plain language of the statute and the legislative history.

CERT. GRANTED 6/12/2006