

Not for Publication in West's Federal Reporter

United States Court of Appeals For the First Circuit

No. 10-1015

UNITED STATES OF AMERICA,

Appellee,

v.

JAMES MASSARO,

Defendant, Appellant.

APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

[Hon. Nathaniel M. Gorton, U.S. District Judge]

Before

Lipez, Circuit Judge,
Souter, Associate Justice,^{*}
and Selya, Circuit Judge.

Joseph H. Zwicker, with whom James W. Evans, Nellie E. Staley,
and Choate Hall & Stewart LLP were on brief, for appellant.

Mark T. Quinlivan, Assistant United States Attorney, with whom
Carmen M. Ortiz, United States Attorney, was on brief, for
appellee.

May 11, 2011

^{*} The Hon. David H. Souter, Associate Justice (Ret.) of the
Supreme Court of the United States, sitting by designation.

Per Curiam. In this sentencing appeal, appellant James Massaro argues, *inter alia*, that the district court erroneously classified his two prior Massachusetts convictions for assault and battery as predicate "violent felon[ies]" for the purpose of imposing a mandatory minimum sentence under the Armed Career Criminal Act. See 18 U.S.C. § 924(e). Given our recent decision in United States v. Holloway, 630 F.3d 252 (1st Cir. 2011), reh'g denied, Nos. 08-2273, 09-1232 (1st Cir. Apr. 28, 2011), we vacate Massaro's sentence and remand for further proceedings.

So ordered.