

## Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

**SUPREME COURT OF THE UNITED STATES**

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**SCHRIRO, DIRECTOR, ARIZONA DEPARTMENT OF  
CORRECTIONS v. SUMMERLIN****CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE NINTH CIRCUIT**

No. 03–526. Argued April 19, 2004—Decided June 24, 2004

Respondent was convicted of first-degree murder and sentenced to death under Arizona’s capital sentencing scheme then in effect, which authorized the trial judge, rather than the jury, to determine the presence of aggravating circumstances that make the defendant eligible for the death sentence. The State Supreme Court affirmed on direct review. While respondent’s subsequent federal habeas case was pending in the Ninth Circuit, this Court decided that *Apprendi v. New Jersey*, 530 U. S. 466, 490, required the existence of an aggravating factor to be proved to a jury rather than a judge under Arizona’s scheme. *Ring v. Arizona*, 536 U. S. 584, 603–609. The Ninth Circuit invalidated respondent’s death sentence, rejecting the argument that *Ring* did not apply because respondent’s conviction and sentence had become final on direct review before *Ring* was decided.

*Held*: *Ring* does not apply retroactively to cases already final on direct review. Pp. 3–10.

(a) A “new rule” resulting from a decision of this Court applies to convictions that are already final only in limited circumstances. New substantive rules generally apply retroactively, but new procedural rules generally do not—only “watershed rules of criminal procedure” implicating the fundamental fairness and accuracy of the criminal proceeding” are given retroactive effect. *Saffle v. Parks*, 494 U. S. 484, 495. Such a rule must be one “without which the likelihood of an accurate conviction is seriously diminished.” *Teague v. Lane*, 489 U. S. 288, 313. Pp. 3–4.

(b) *Ring*’s holding is properly classified as procedural. It did not alter the range of conduct or the class of persons subject to the death penalty in Arizona, but only the method of determining whether the

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defendant engaged in that conduct. Pp. 4–6.

(c) *Ring* did not announce a watershed rule of criminal procedure. This Court cannot confidently say that judicial factfinding seriously diminishes accuracy. Pp. 7–10.

341 F. 3d 1082, reversed and remanded.

SCALIA, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O’CONNOR, KENNEDY, and THOMAS, JJ., joined. BREYER, J., filed a dissenting opinion, in which STEVENS, SOUTER, and GINSBURG, JJ., joined.