12-547 METRISH V. LANCASTER

DECISION BELOW: 683 F.3d 740

LOWER COURT CASE NUMBER: 10-2112

QUESTION PRESENTED:

1. Whether the Michigan Supreme Court's recognition that a state statute abolished the long-maligned diminished-capacity defense was an "unexpected and indefensible" change in a common-law doctrine of criminal law under this Court's retroactivity jurisprudence. See *Rogers v. Tennessee*, 532 U.S. 451 (2001).

2. Whether the Michigan Court of Appeals' retroactive application of the Michigan Supreme Court's decision was "so lacking in justification that there was an error well understood and comprehended in existing law beyond any possibility for fairminded disagreement" so as to justify habeas relief. *Harrington v. Richter*, 131 S. Ct. 770, 786-87 (2011).

CERT. GRANTED 1/18/2013