

**18-217 MATHENA V. MALVO**

DECISION BELOW: 893 F.3d 265

LOWER COURT CASE NUMBER: 17-6746, 17-6758

**QUESTION PRESENTED:**

In *Miller v. Alabama*, 567 U.S. 460 (2012), this Court held that "mandatory life without parole for those under the age of 18 at the time of their crimes violates the Eighth Amendment's prohibition on 'cruel and unusual punishments.'" *Id.* at 465. Four years later, in *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016), the Court held that "*Miller* announced a substantive rule of constitutional law" that, under *Teague v. Lane*, 489 U.S. 288 (1989), must be given "retroactive effect" in cases where direct review was complete when *Miller* was decided. *Montgomery*, 136 S. Ct. at 736.

The question presented is:

Did the Fourth Circuit err in concluding—in direct conflict with Virginia's highest court and other courts—that a decision of this Court (*Montgomery*) addressing whether a new constitutional rule announced in an earlier decision (*Miller*) applies retroactively on collateral review may properly be interpreted as modifying and substantively expanding the very rule whose retroactivity was in question?

CERT. GRANTED 3/18/2019