

21-846 CRUZ V. ARIZONA

DECISION BELOW: 487 P.3d 991

LOWER COURT CASE NUMBER: CR-17-0567-PC

QUESTION PRESENTED:

In *Simmons v. South Carolina*, 512 U.S. 154 (1994), this Court held that in cases where a capital defendant's future dangerousness is at issue, due process entitles the defendant to inform the jury that he will be ineligible for parole if not sentenced to death. For many years thereafter, the Arizona Supreme Court refused to apply *Simmons*. In *Lynch v. Arizona*, 578 U.S. 613 (2016) (per curiam), this Court summarily reversed the Arizona Supreme Court's misapplication of *Simmons* and confirmed that the *Simmons* rule applies in Arizona.

This petition is brought by a capital defendant in Arizona whose conviction became final after *Simmons* but before *Lynch*. He was sentenced to death after the trial judge repeatedly denied him his right under *Simmons* to inform the jury that he was parole-ineligible. After this Court in *Lynch* applied *Simmons* to Arizona, he sought postconviction relief in state court seeking the relief that *Simmons* and *Lynch* require. The Arizona Supreme Court denied his claim. Although Arizona provides a forum for federal constitutional claims on collateral review, and although the Arizona Supreme Court recognized that *Lynch* "was dictated by" *Simmons*, the court concluded that the rule of *Lynch* should not apply to cases pending on collateral review.

This petition presents the question whether this Court's decision in *Lynch* applied a settled rule of federal law that must be applied to cases pending on collateral review in Arizona.

GRANTED LIMITED TO THE FOLLOWING QUESTION: WHETHER THE ARIZONA SUPREME COURT'S HOLDING THAT ARIZONA RULE OF CRIMINAL PROCEDURE 32.1(g) PRECLUDED POST-CONVICTION RELIEF IS AN ADEQUATE AND INDEPENDENT STATE-LAW GROUND FOR THE JUDGMENT.

CERT. GRANTED 3/28/2022