

PREVIEW OF FIRST THREE PAGES
OF CHAPTER SEVEN

THE *TEAGUE* RULE [7.00.0]:

A. GENERAL PRINCIPLES [7.10.0]:

1. The Rule [7.11.0]: Generally speaking, new judicial rulings apply retroactively as well as prospectively. The Supreme Court in *Teague v. Lane*, 489 U.S. 288, 299-316 (1989), however, recognized a defense to claims based on newly announced judicial rulings. Under the *Teague* doctrine, a "new rule" of federal constitutional law will not be applied or announced on collateral review unless the rule falls within one of two narrow exceptions. The *Teague* doctrine is predicated on interests in comity and in the finality of criminal convictions. *Gilmore v. Taylor*, 508 U.S. 333, 340 (1993).
2. When *Teague* Is Addressed By The Court Relative To Other Issues [7.12.0]:

- a. *Teague* Addressed Before The Merits [7.12.1]: When *Teague* is properly raised by the state, "the court *must* apply *Teague* before considering the merits of the claim." *Horn v. Banks*, 536 U.S. 266, 267 (2002) (*per curiam*) (emphasis in original); *accord Caspari v. Bohlen*, 510 U.S. 383, 389 (1994).

But some lower courts have concluded that while a *Teague* analysis is required before a federal court may *grant* habeas relief, where it is easier to deny the petition on other grounds, a *Teague* analysis is not required. *Goodrich v. Hall*, 448 F.3d 45, 49 (1st Cir. 2006); *Campiti v. Matesanz*, 333 F.3d 317, 321-22 (1st Cir. 2003); *accord Townes v. Murray*, 68 F.3d 840, 847-48 (4th Cir. 1995); *Eaglin v. Welborn*, 57 F.3d 496, 499 (7th Cir. 1995) (en banc).

- b. Procedural Bars Generally Addressed Before *Teague* [7.12.2]: Ordinarily, courts should decide a procedural bar

issue before the *Teague* inquiry, in part because it is wise to avoid constitutional considerations whenever possible, and unlike the cause and prejudice question, the *Teague* inquiry requires a detailed analysis of federal constitutional law.

Lambrix v. Singletary, 520 U.S. 518, 524-25 (1997).

However, in some cases "[j]udicial economy might counsel giving the *Teague* question priority, for example, if it were easily resolvable against the petitioner, whereas the procedural-bar issue involve[s] complicated questions of State law." *Id.* at 525.

3. *Teague* Applies To Both State And Federal Prisoners [7.13.0]: The *Teague* doctrine was established in the context of a state prisoner challenging his state conviction, *Teague*, 489 U.S. at 288, and the Court in that case did not explicitly rule whether the *Teague* doctrine applies to federal prisoners seeking relief under § 2255. *Teague*, 489 U.S. at 327 n.1 (Brennan, J., dissenting) ("The plurality does not address the question whether the rule it announces today extends to claims brought by federal, as well as, state prisoners").

But later in *Bousley v. United States*, 523 U.S. 614, 619-20 (1998), the Court held that *Teague* was not applicable to the situation in which the Supreme Court decides the meaning of a criminal statute. Because the Court did not dismiss the *Teague* argument out-of-hand as not applying to federal prisoners, the decision could be read as suggesting that *Teague* may apply in some § 2255 cases.

And lower courts have concluded that *Teague* applies to federal prisoners. *Lang v. United States*, 474 F.3d 348, 354 n.8 (6th Cir. 2007); *United States v. Jenkins*, 333 F.3d 151, 153 (3d Cir. 2003); *Sepulveda v. United States*, 330 F.3d 55, 66 (1st Cir. 2003); *United States v. Brown*, 305 F.3d 304, 306 (5th Cir. 2002); *United States v. Sanchez-Cervantes*, 282 F.3d 664, 667-68 (9th Cir. 2002); *McCoy v. United States*, 266 F.3d 1245, 1255 (11th Cir. 2001); *Daniels v. United States*, 254 F.3d 1180, 1194 (10th Cir. 2001) (en banc); *United States v. Moss*, 252 F.3d 993, 997 (8th Cir. 2001); *United States v. Martinez*, 139 F.3d 412, 416 (4th Cir. 1998); *Van Daalwyk v. United States*, 21 F.3d 179, 183 (7th Cir.

1994); *Gilberti v. United States*, 917 F.2d 92, 95 (2d Cir. 1990). *But see Valentine v. United States*, 488 F.3d 325, 344-45 (6th Cir. 2007) (Martin, J., concurring in part and dissenting in part) (opining that the “federal-*Teague*” standard should be based on “whether the new decision ‘simply applie[s] a well-established constitutional principle to govern a case which is closely analogous to those which have been previously considered in the prior case law’”) (quoting *Penry v. Lynaugh*, 492 U.S. 302, 314 (1989)).

4. *Teague* Applies To Both Capital And Non-Capital Cases [7.14.0]: The *Teague* rule has been applied in both capital and non-capital cases. *Penry v. Lynaugh*, 492 U.S. 302, 314 (1989).
5. *Teague* Defense Available To The State, But Not Prisoners [7.15.0]: *Teague* is a one-way street, benefitting the state but not the prisoner. “[D]esigned as it is to protect the state's interest in the finality of criminal convictions, it entitles the state, but not the petitioner, to object to the application of a new rule to an old case.” *Free v. Peters*, 12 F.3d 700, 703 (7th Cir. 1993) (citing *Lockhart v. Fretwell*, 506 U.S. 364 (1993)); *accord Mason v. Yarborough*, 447 F.3d 693, 696-99 (9th Cir. 2006) (Wallace, J., concurring) (“Although *Crawford* was decided after Mason's conviction became final, intervening precedents are applied retroactively against habeas petitioners”).



Case Summary

- ❑ Evidence was presented at the petitioner’s sentencing hearing concerning the impact of the killing on the victim's family. Eight years later, the United State Supreme Court held that "victim impact" evidence was inadmissible in a capital case. *Booth v. Maryland*, 482 U.S. 496 (1987). Four years after that, the Supreme Court overruled *Booth*. *Payne v. Tennessee*, 501 U.S. 808 (1991). The petitioner argued that *Booth* did not create a new rule and therefore governed his sentencing hearing. He further argued that *Payne* created a “new rule” under *Teague* and therefore was inapplicable to his case. The court rejected the argument on the ground that the *Teague* non-retroactivity