NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Wash-ington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 91–7580

GARY GRAHAM, PETITIONER *v.* JAMES A. COLLINS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

[January 25, 1993]

JUSTICE WHITE delivered the opinion of the Court.

In this case, we are asked to decide whether the jury that sentenced petitioner, Gary Graham, to death was able to give effect, consistent with the Eighth and Fourteenth Amendments, to mitigating evidence of Graham's youth, family background, and positive character traits. Because this case comes to us on collateral review, however, we must first decide whether the relief that petitioner seeks would require announcement of a new rule of constitutional law, in contravention of the principles set forth in *Teague* v. *Lane*, 489 U. S. 288 (1989). Concluding that Graham's claim is barred by *Teague*, we affirm.

On the night of May 13, 1981, Graham accosted Bobby Grant Lambert in the parking lot of a Houston, Texas, grocery store and attempted to grab his wallet. When Lambert resisted, Graham drew a pistol and shot him to death. Five months later, a jury rejected Graham's defense of mistaken identity and convicted him of capital murder in violation of Tex. Penal Code Ann. §19.03(a)(2) (1989).

At the sentencing phase of Graham's trial, the State offered evidence that Graham's murder of Lambert commenced a week of violent attacks during which

the 17-year-old Graham committed a string of robberies, several assaults, and one rape. Graham did not contest this evidence. Rather, in mitigation, the defense offered testimony from Graham's stepfather and grandmother concerning his upbringing and positive character traits. The stepfather, Joe Samby, testified that Graham, who lived and worked with his natural father, typically visited his mother once or twice a week and was a "real nice, respectable" person. Samby further testified that Graham would pitch in on family chores and that Graham, himself a father of two young children, would "buy . . . clothes for his children and try to give them food."

Graham's grandmother, Emma Chron, testified that Graham had lived with her off and on throughout his childhood because his mother had been hospitalized periodically for a "nervous condition." Chron also stated that she had never known Graham to be violent or disrespectful, that he attended church regularly while growing up, and that "[h]e loved the Lord." In closing arguments to the jury, defense counsel depicted Graham's criminal behavior as aberrational and urged the jury to take Graham's youth into account in deciding his punishment.

In accord with the capital-sentencing statute then in effect,[1] Graham's jury was instructed that it was to answer three "special issues":

> "(1) whether the conduct of the defendant that caused the death of the deceased was committed deliberately and with the reasonable expectation that the death of the deceased or another would result;

---

[1]The Texas Legislature amended the statute in 1991. Those changes are set forth in the opinion of the Court of Appeals. 950 F. 2d 1009, 1012, n. 1 (CA5 1992) (en banc).

(2) whether there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society; and

(3) if raised by the evidence, whether the conduct of the defendant in killing the deceased was unreasonable in response to the provocation, if any, by the deceased." Tex. Code Crim. Proc. Ann., Art. 37.071(b) (Vernon 1981).

The jury unanimously answered each of these questions in the affirmative, and the court, as required by the statute, sentenced Graham to death. Art. 37.071(e). The Texas Court of Criminal Appeals affirmed Graham's conviction and sentence in an unpublished opinion.

In 1987, Graham unsuccessfully sought postconviction relief in the Texas state courts. The following year, Graham petitioned for a writ of habeas corpus in Federal District Court pursuant to 28 U. S. C. §2254, contending, *inter alia*, that his sentencing jury had been unable to give effect to his mitigating evidence within the confines of the statutory "special issues." The District Court denied relief and the Court of Appeals for the Fifth Circuit denied Graham's petition for a certificate of probable cause to appeal. *Graham* v. *Lynaugh,* 854 F. 2d 715 (1988). The Court of Appeals found Graham's claim to be foreclosed by our recent decision in *Franklin* v. *Lynaugh*, 487 U. S. 164 (1988), which held that a sentencing jury was fully able to consider and give effect to mitigating evidence of a defendant's clean prison disciplinary record by way of answering Texas' special issues. 854 F. 2d, at 719–720.

While Graham's petition for a writ of certiorari was pending here, the Court announced its decision in *Penry* v. *Lynaugh*, 492 U. S. 302 (1989), holding that evidence of a defendant's mental retardation and abused childhood could not be given mitigating effect

by a jury within the framework of the special issues.[2] We then granted Graham's petition, vacated the judgment below, and remanded for reconsideration in light of *Penry*. *Graham* v. *Lynaugh,* 492 U. S. 915 (1989). On remand, a divided panel of the Court of Appeals reversed the District Court and vacated Graham's death sentence. 896 F. 2d 893 (CA5 1990).

On rehearing en banc, the Court of Appeals vacated the panel's decision and reinstated its prior mandate affirming the District Court. 950 F. 2d 1009 (1992). The court reviewed our holdings on the constitutional requirement that a sentencer be permitted to consider and act upon any relevant mitigating evidence put forward by a capital defendant, and then rejected Graham's claim on the merits. The court noted that this Court had upheld the Texas capital-sentencing statute against a facial attack in *Jurek* v. *Texas*, 428 U. S. 262 (1976), after acknowledging that "`the constitutionality of the Texas procedures turns on whether the enumerated questions allow consideration of particularized mitigating factors.'" 950 F. 2d, at 1019 (quoting *Jurek, supra,* at 272). Noting that the petitioner in *Jurek* had himself proferred mitigating evidence of his young age, employment history, and aid to his family, the Court of Appeals concluded that "[a]t the very least, *Jurek* must stand for the proposition that these mitigating factors—relative youth and evidence reflecting good character traits such as steady employment and helping others—are adequately covered by the second special issue," concerning the

---

[2]*Penry* further held that its result was dictated by the Court's prior decisions in *Eddings* v. *Oklahoma*, 455 U. S. 104 (1982), and *Lockett* v. *Ohio*, 438 U. S. 586 (1978) (plurality opinion), within the sense required by *Teague* v. *Lane*, 489 U. S. 288 (1989), and thus that its rule applied to cases on collateral review. See *Penry*, 492 U. S., at 314–319.

defendant's risk of future dangerousness. 950 F. 2d, at 1029. "*Penry* cannot hold otherwise," the court observed, "and at the same time not be a `new rule' for *Teague* purposes." *Ibid.* Accordingly, the court ruled that the jury that sentenced Graham could give adequate mitigating effect to his evidence of youth, unstable childhood, and positive character traits by way of answering the Texas special issues.

We granted certiorari, 504 U. S. ___ (1992), and now affirm.

Because this case is before us on Graham's petition for a writ of federal habeas corpus, "we must determine, as a threshold matter, whether granting him the relief he seeks would create a `new rule'" of constitutional law. *Penry* v. *Lynaugh, supra,* at 313; see also *Teague* v. *Lane*, 489 U. S., at 301 (plurality opinion). "Under *Teague*, new rules will not be applied or announced in cases on collateral review unless they fall into one of two exceptions." *Penry*, *supra*, at 313. This restriction on our review applies to capital cases as it does to those not involving the death penalty. 492 U. S., at 314; *Stringer* v. *Black*, 503 U. S. ___ (1992); *Sawyer* v. *Smith*, 497 U. S. 227 (1990); *Saffle* v. *Parks*, 494 U. S. 484 (1990); *Butler* v. *McKellar*, 494 U. S. 407 (1990).

A holding constitutes a "new rule" within the meaning of *Teague* if it "breaks new ground," "imposes a new obligation on the States or the Federal Government," or was not "*dictated* by precedent existing at the time the defendant's conviction became final." *Teague*, *supra*, at 301 (emphasis in original). While there can be no dispute that a decision announces a new rule if it expressly overrules a prior decision, "it is more difficult . . . to determine whether we announce a new rule when a decision extends the reasoning of our prior cases." *Saffle* v. *Parks*, *supra*, at 488. Because the leading

purpose of federal habeas review is to "ensur[e] that state courts conduct criminal proceedings in accordance with the Constitution as interpreted at the time of th[ose] proceedings," *ibid.*, we have held that "[t]he `new rule' principle . . . validates reasonable, good-faith interpretations of existing precedents made by state courts." *Butler* v. *McKellar*, *supra*, at 414. This principle adheres even if those good-faith interpretations "are shown to be contrary to later decisions." *Ibid.* Thus, unless reasonable jurists hearing petitioner's claim at the time his conviction became final "would have felt compelled by existing precedent" to rule in his favor, we are barred from doing so now. *Saffle* v. *Parks*, *supra*, at 488.

Petitioner's conviction and sentence became final on September 10, 1984, when the time for filing a petition for certiorari from the judgment affirming his conviction expired. See *Griffith* v. *Kentucky*, 479 U. S. 314, 321, n. 6 (1987). Surveying the legal landscape as it then existed, we conclude that it would have been anything but clear to reasonable jurists in 1984 that petitioner's sentencing proceeding did not comport with the Constitution.

In the years since *Furman* v. *Georgia*, 408 U. S. 238 (1972), the Court has identified, and struggled to harmonize, two competing commandments of the Eighth Amendment. On one hand, as *Furman* itself emphasized, States must limit and channel the discretion of judges and juries to ensure that death sentences are not meted out "wantonly" or "freakishly." *Id.*, at 310 (Stewart, J., concurring). On the other, as we have emphasized in subsequent cases, States must confer on the sentencer sufficient discretion to take account of the "character and

record of the individual offender and the circumstances of the particular offense" to ensure that "death is the appropriate punishment in a specific case." *Woodson* v. *North Carolina*, 428 U. S. 280, 304–305 (1976) (plurality opinion of Stewart, Powell, and STEVENS, JJ.).

Four years after *Furman*, and on the same day that *Woodson* was announced, the Court in *Jurek* v. *Texas*, 428 U. S. 262 (1976), examined the very statutory scheme under which Graham was sentenced and concluded that it struck an appropriate balance between these constitutional concerns. The Court thus rejected an attack on the entire statutory scheme for imposing the death penalty and in particular an attack on the so-called "special issues." It is well to set out how the Court arrived at its judgment. The joint opinion of Justices Stewart, Powell, and STEVENS observed that while Texas had not adopted a list of aggravating circumstances that would justify the imposition of the death penalty, "its action in narrowing the categories of murders for which a death sentence may ever be imposed serves much the same purpose." *Id.*, at 270. The opinion went on to say that because the constitutionality of a capital sentencing system also requires the sentencing authority to consider mitigating circumstances and since the Texas statute did not speak of mitigating circumstances and instead directs only that the jury answer three questions, "the constitutionality of the Texas procedures turns on whether the enumerated questions allow consideration of particularized mitigating factors." *Id.*, at 272.

The opinion then recognized that the Texas Court of Criminal Appeals had held:

> "`In determining the likelihood that the defendant would be a continuing threat to society, the jury could consider whether the defendant had a significant criminal record. It could consider the

> range and severity of his prior criminal conduct. It could further look to the age of the defendant and whether or not at the time of the commission of the offense he was acting under duress or under the domination of another. It could also consider whether the defendant was under an extreme form of mental or emotional pressure, something less, perhaps, than insanity, but more than the emotions of the average man, however inflamed, could withstand.' 522 S. W. 2d, at 939–940." *Id.,* at 272–273.

Based on this assurance, the opinion characterized the Texas sentencing procedure as follows:

> "Thus, Texas law essentially requires that one of five aggravating circumstances be found before a defendant can be found guilty of capital murder, and that in considering whether to impose a death sentence the jury may be asked to consider whatever evidence of mitigating circumstances the defense can bring before it. It thus appears that, as in Georgia and Florida, the Texas capital-sentencing procedure guides and focuses the jury's objective consideration of the particularized circumstances of the individual offense and the individual offender before it can impose a sentence of death." *Id.,* at 273–274.
>
> "What is essential is that the jury have before it all possible relevant information about the individual defendant whose fate it must determine. Texas law clearly assures that all such evidence will be adduced." *Id.,* at 276.

The opinion's ultimate conclusion was

> "that Texas' capital-sentencing procedures, like those of Georgia and Florida, do not violate the Eighth and Fourteenth Amendments. By narrowing its definition of capital murder, Texas has essentially said that there must be at least one statutory aggravating circumstance in a first-degree murder case before a death sentence may

> even be considered. By authorizing the defense to bring before the jury at the separate sentencing hearing whatever mitigating circumstances relating to the individual defendant can be adduced, Texas has ensured that the sentencing jury will have adequate guidance to enable it to perform its sentencing function. By providing prompt judicial review of the jury's decision in a court with statewide jurisdiction, Texas has provided a means to promote the evenhanded, rational, and consistent imposition of death sentences under law. Because this system serves to assure that sentences of death will not be `wantonly' or `freakishly' imposed, it does not violate the Constitution. *Furman* v. *Georgia*, 408 U. S., at 310 (STEWART, J., concurring)." *Id.,* at 276.

It is plain enough, we think, that the joint opinion could reasonably be read as having arrived at this conclusion only after being satisfied that the mitigating evidence introduced by the defendant, including his age, would be given constitutionally adequate consideration in the course of the jury's deliberation on the three special issues. Three other Justices concurred in the holding that the Texas procedures for imposing the death penalty were constitutional. *Id.*, at 278–279 (WHITE, J., concurring in judgment).

Two years after *Jurek*, in another splintered decision, *Lockett* v. *Ohio*, 438 U. S. 586 (1978), the Court invalidated an Ohio death penalty statute that prevented the sentencer from considering certain categories of relevant mitigating evidence. In doing so, a plurality of the Court consisting of Chief Justice Burger and Justices Stewart, Powell, and STEVENS, stated that the constitutional infirmities in the Ohio statute could "best be understood by comparing it with the statutes upheld in *Gregg*, *Proffitt*, and *Jurek*." *Id.*, at 606. This the plurality proceeded to do,

recounting in the process that the Texas statute had been held constitutional in *Jurek* because it permitted the sentencer to consider whatever mitigating circumstances the defendant could show. Emphasizing that "an individualized [sentencing] decision is essential in capital cases," the plurality concluded:

> "There is no perfect procedure for deciding in which cases governmental authority should be used to impose death. But a statute that prevents the sentencer in all capital cases from giving independent weight to aspects of the defendant's character and record and to circumstances of the offense proffered in mitigation creates the risk that the death penalty will be imposed in spite of factors that may call for a less severe penalty." 438 U. S., at 605.

Obviously, the plurality did not believe the Texas statute suffered this infirmity.

The plurality's rule was embraced by a majority of the Court four years later in *Eddings* v. *Oklahoma*, 455 U. S. 104 (1982). There, the Court overturned a death sentence on the grounds that the judge who entered it had felt himself bound by state law to disregard mitigating evidence concerning the defendant's troubled youth and emotional disturbance. The Court held that, "[j]ust as the State may not by statute preclude the sentencer from considering any mitigating factor, neither may the sentencer refuse to consider, as a matter of law, any relevant mitigating evidence." *Id.*, at 113–114 (emphasis omitted); see also *Hitchcock* v. *Dugger*, 481 U. S. 393, 394 (1987); *Skipper* v. *South Carolina*, 476 U. S. 1, 4–5 (1986). The *Eddings* opinion rested on *Lockett* and made no mention of *Jurek*.

We cannot say that reasonable jurists considering petitioner's claim in 1984 would have felt that these cases "*dictated*" vacatur of petitioner's death sentence. See *Teague*, 489 U. S., at 301. To the

contrary, to most readers at least, these cases reasonably would have been read as upholding the constitutional *validity* of Texas' capital-sentencing scheme with respect to mitigating evidence and otherwise. *Lockett* expressly embraced the *Jurek* holding, and *Eddings* signaled no retreat from that conclusion. It seems to us that reasonable jurists in 1984 would have found that, under our cases, the Texas statute satisfied the commands of the Eighth Amendment: it permitted petitioner to place before the jury whatever mitigating evidence he could show, including his age, while focusing the jury's attention upon what that evidence revealed about the defendant's capacity for deliberation and prospects for rehabilitation.

We find nothing in our more recent cases, to the extent they are relevant, that would undermine this analysis. In 1988, in *Franklin* v. *Lynaugh*, 487 U. S. 164, we rejected a claim that the Texas special issues provided an inadequate vehicle for jury consideration of evidence of a defendant's clean prison disciplinary record. There, a plurality of the Court observed that "[i]n resolving the second Texas Special Issue, the jury was surely free to weigh and evaluate petitioner's disciplinary record as it bore on his `character'—that is, his `character' as measured by his likely future behavior." *Id.,* at 178. Moreover, the plurality found

> "unavailing petitioner's reliance on this Court's statement in *Eddings*, 455 U. S., at 114, that the sentencing jury may not be precluded from considering `any relevant, mitigating evidence.' This statement leaves unanswered the question: relevant to what? While *Lockett*, *supra*, at 604, answers this question at least in part—making it clear that a State cannot take out of the realm of relevant sentencing considerations the questions of the defendant's `character,' `record,' or the `circumstances of the offense'—*Lockett* does not

> hold that the State has no role in structuring or giving shape to the jury's consideration of these mitigating factors." *Id.*, at 179 (citations omitted).

To be sure, JUSTICE O'CONNOR's opinion concurring in the judgment in *Franklin* expressed "doubts" about the validity of the Texas death penalty statute as that statute might be applied in future cases. *Id.*, at 183. The Justice agreed, however, that the special issues adequately accounted for the mitigating evidence presented in that case. *Ibid.*

This brings us to *Penry* v. *Lynaugh*, 492 U. S. 302 (1989), upon which petitioner chiefly relies. In that case, the Court overturned a prisoner's death sentence, finding that the Texas special issues provided no genuine opportunity for the jury to give mitigating effect to evidence of his mental retardation and abused childhood. The Court considered these factors to be mitigating because they diminished the defendant's ability "to control his impulses or to evaluate the consequences of his conduct," and therefore reduced his moral culpability. *Id.*, at 322. The Texas special issues permitted the jury to consider this evidence, but not necessarily in a way that would benefit the defendant. Although Penry's evidence of mental impairment and childhood abuse indeed had relevance to the "future dangerousness" inquiry, its relevance was *aggravating* only. "Penry's mental retardation and history of abuse is thus a two-edged sword: it may diminish his blameworthiness for his crime even as it indicates that there is a probability that he will be dangerous in the future." *Id.*, at 324. Whatever relevance Penry's evidence may have had to the other two special issues was too tenuous to overcome this aggravating potential. Because it was impossible to give meaningful mitigating effect to Penry's evidence by way of answering the special issues, the Court concluded that Penry was constitutionally entitled to further

instructions "informing the jury that it could consider and give effect to [Penry's] evidence . . . by declining to impose the death penalty." *Id.*, at 328.

We do not read *Penry* as effecting a sea change in this Court's view of the constitutionality of the former Texas death penalty statute; it does *not* broadly suggest the invalidity of the special issues framework.[3] Indeed, any such reading of *Penry* would be inconsistent with the Court's conclusion in that case that it was not announcing a "new rule" within the meaning of *Teague* v. *Lane,* 489 U. S. 288 (1989). See *Penry*, 492 U. S., at 318–319. As we have explained in subsequent cases:

> "To the extent that Penry's claim was that the Texas system prevented the jury from giving any mitigating effect to the evidence of his mental retardation and abuse in childhood, the decision that the claim did not require the creation of a new rule is not surprising. *Lockett* and *Eddings* command that the State must allow the jury to give effect to mitigating evidence in making the sentencing decision; Penry's contention was that

---

[3]To the contrary, the Court made clear in that case the limited nature of the question presented: "Penry does not challenge the facial validity of the Texas death penalty statute, which was upheld against an Eighth Amendment challenge in *Jurek* v. *Texas*, 428 U. S. 262 (1976). Nor does he dispute that some types of mitigating evidence can be fully considered by the sentencer in the absence of special jury instructions. See *Franklin* v. *Lynaugh*, 487 U. S. 164, 175 (1988) (plurality opinion); *id.*, at 185–186 (O'CONNOR, J., concurring in judgment). Instead, Penry argues that, on the facts of this case, the jury was unable to fully consider and give effect to the mitigating evidence of his mental retardation and abused background in answering the three special issues." 492 U. S., at 315.

> Texas barred the jury from so acting. Here, by contrast, there is no contention that the State altogether prevented Parks' jury from considering, weighing, and giving effect to all of the mitigating evidence that Parks put before them; rather, Parks' contention is that the State has unconstitutionally limited the manner in which his mitigating evidence may be considered. As we have concluded above, the former contention would come under the rule of *Lockett* and *Eddings*; the latter does not." *Saffle* v. *Parks*, 494 U. S., at 491.

In our view, the rule that Graham seeks is not commanded by the cases upon which *Penry* rested. In those cases, the constitutional defect lay in the fact that relevant mitigating evidence was placed beyond the effective reach of the sentencer. In *Lockett*, *Eddings*, *Skipper*, and *Hitchcock*, the sentencer was precluded from even considering certain types of mitigating evidence. In *Penry*, the defendant's evidence was placed before the sentencer but the sentencer had no reliable means of giving mitigating effect to that evidence. In this case, however, Graham's mitigating evidence was not placed beyond the jury's effective reach. Graham indisputably was permitted to place all of his evidence before the jury and both of Graham's two defense lawyers vigorously urged the jury to answer "no" to the special issues based on this evidence. Most important, the jury plainly could have done so consistent with its instructions. The jury was not forbidden to accept the suggestion of Graham's lawyers that his brief spasm of criminal activity in May 1981 was properly viewed, in light of his youth, his background, and his character, as an aberration that was not likely to be repeated. Even if Graham's evidence, like Penry's, had significance beyond the scope of the first special issue, it is apparent that Graham's evidence—*unlike* Penry's—had mitigating relevance to the second

special issue concerning his likely future dangerousness. Whereas Penry's evidence compelled an affirmative answer to that inquiry, despite its mitigating significance, Graham's evidence quite readily could have supported a negative answer. This distinction leads us to conclude that neither *Penry* nor any of its predecessors "*dictates*" the relief Graham seeks within the meaning required by *Teague*. See *Stringer* v. *Black*, 503 U. S., at ___–___ (slip op., at 1–2) (SOUTER, J., dissenting): "The result in a given case is not dictated by precedent if it is `susceptible to debate among reasonable minds,' or, put differently, if `reasonable jurists may disagree'" (citations omitted).

Moreover, we are not convinced that *Penry* could be extended to cover the sorts of mitigating evidence Graham suggests without a wholesale abandonment of *Jurek* and perhaps also of *Franklin* v. *Lynaugh*, *supra*. As we have noted, *Jurek* is reasonably read as holding that the circumstance of youth is given constitutionally adequate consideration in deciding the special issues. We see no reason to regard the circumstances of Graham's family background and positive character traits in a different light. Graham's evidence of transient upbringing and otherwise nonviolent character more closely resembles Jurek's evidence of age, employment history, and familial ties than it does Penry's evidence of mental retardation and harsh physical abuse. As the dissent in *Franklin* made clear, virtually *any* mitigating evidence is capable of being viewed as having some bearing on the defendant's "moral culpability" apart from its relevance to the particular concerns embodied in the Texas special issues. See *Franklin*, 487 U. S., at 190 (STEVENS, J., dissenting). It seems to us, however, that reading *Penry* as petitioner urges—and thereby holding that a defendant is entitled to special instructions whenever he can offer mitigating evidence that has *some* arguable relevance beyond

the special issues—would be to require in all cases that a fourth "special issue" be put to the jury: "`Does any mitigating evidence before you, whether or not relevant to the above [three] questions, lead you to believe that the death penalty should not be imposed?'" The *Franklin* plurality rejected precisely this contention, finding it irreconcilable with the Court's holding in *Jurek*, see *Franklin*, 487 U. S., at 180, n. 10, and we affirm that conclusion today. Accepting Graham's submission would unmistakably result in a new rule under *Teague*. See *Saffle* v. *Parks*, *supra*, at 488; *Butler* v. *McKellar*, 494 U. S., at 412.

In sum, even if *Penry* reasonably could be read to suggest that Graham's mitigating evidence was not adequately considered under the former Texas procedures, that is not the relevant inquiry under *Teague*. Rather, the determinative question is whether reasonable jurists reading the case law that existed in 1984 could have concluded that Graham's sentencing was *not* constitutionally infirm. We cannot say that all reasonable jurists would have deemed themselves compelled to accept Graham's claim in 1984. Nor can we say, even with the benefit of the Court's subsequent decision in *Penry*, that reasonable jurists would be of one mind in ruling on Graham's claim today. The ruling Graham seeks, therefore, would be a "new rule" under *Teague*.

Having decided that the relief Graham seeks would require announcement of a new rule under *Teague*, we next consider whether that rule nonetheless would fall within one of the two exceptions recognized in *Teague* to the "new rule" principle. "The first exception permits the retroactive application of a new rule if the rule places a class of private conduct beyond the power of the State to proscribe, see *Teague*, 489 U. S., at 311, or addresses

a `substantive categorical guarante[e] accorded by the Constitution,' such as a rule `prohibiting a certain category of punishment for a class of defendants because of their status or offense.'" *Saffle* v. *Parks,* 494 U. S., at 494 (quoting *Penry*, 492 U. S., at 329, 330). Plainly, this exception has no application here because the rule Graham seeks "would neither decriminalize a class of conduct nor prohibit the imposition of capital punishment on a particular class of persons." 494 U. S., at 495.

The second exception permits federal courts on collateral review to announce "`watershed rules of criminal procedure' implicating the fundamental fairness and accuracy of the criminal proceeding." *Ibid.* Whatever the precise scope of this exception, it is clearly meant to apply only to a small core of rules requiring "observance of `those procedures that . . . are "implicit in the concept of ordered liberty."'" *Teague*, 489 U. S., at 311 (quoting *Mackey* v. *United States*, 401 U. S. 667, 693 (1971) (Harlan, J., concurring in judgments in part and dissenting in part) (in turn quoting *Palko* v. *Connecticut*, 302 U. S. 319, 325 (1937))); see also *Butler* v. *McKellar*, *supra,* at 416. As the plurality cautioned in *Teague*, "[b]ecause we operate from the premise that such procedures would be so central to an accurate determination of innocence or guilt, we believe it unlikely that many such components of basic due process have yet to emerge." 489 U. S., at 313. We do not believe that denying Graham special jury instructions concerning his mitigating evidence of youth, family background, and positive character traits "seriously diminish[ed] the likelihood of obtaining an accurate determination" in his sentencing proceeding. See *Butler* v. *McKellar*, *supra*, at 416. Accordingly, we find the second *Teague* exception to be inapplicable as well.

The judgment of the Court of Appeals is therefore

Affirmed.