Lynaugh.[596] Thus, for collateral review in federal courts of state court criminal convictions, the general rule is that "new rules" of constitutional interpretation—those "not '*dictated* by precedent existing at the time the defendant's conviction became final'"[597]—will not be applied.[598] "A new rule applies retroactively in a collateral proceeding only if (1) the rule is substantive or (2) the rule is a 'watershed rul[e] of criminal procedure' implicating the fundamental fairness and accuracy of the criminal proceeding."[599]

What the rule is to be, and indeed if there *is* to be a rule, in civil cases has been disputed to a rough draw in recent cases. As was noted above, there is a line of civil cases, constitutional and nonconstitutional, in which the Court has declined to apply new rules, the result often of overruling older cases, retrospectively, sometimes even to the prevailing party in the case.[600] As in criminal cases,

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[596] 492 U.S. 302 (1989).

[597] Whorton v. Bockting, 549 U.S. 406, 416 (2007). Put another way, it is not enough that a decision is "within the 'logical compass' of an earlier decision, or indeed that it is 'controlled' by a prior decision." A decision announces a "new rule" if its result "was susceptible to debate among reasonable minds" and if it was not "an illogical or even a grudging application" of the prior decision. Butler v. McKellar, 494 U.S. 407, 412–415 (1990). For additional elaboration on "new law," *see* O'Dell v. Netherland, 521 U.S. 151 (1997); Lambrix v. Singletary, 520 U.S. 518 (1997); Gray v. Netherland, 518 U.S. 152 (1996). *But compare* Bousley v. Brooks, 523 U.S. 614 (1998).

[598] The approach in state collateral review proceedings, however, may be different. The Court has indicated that the general rule regarding denial of retroactive application of "new rules" in federal collateral proceeding was principally based on an interpretation of federal statutory law. State collateral review of cases brought under state law may be more generous to the defendant. Danforth v. Minnesota, 552 U.S. 264 (2008).

For an example of the application of the *Teague* rule in federal collateral review of a federal court conviction, see Chaidez v. United States, 568 U.S. ___, No. 11–820, slip op. (2013).

[599] Whorton v. Bockting, 549 U.S. 406, 416 (2007). Put another way, a new rule will be applied in a collateral proceeding only if it places certain kinds of conduct "beyond the power of the criminal law-making authority to prescribe" or constitutes a "new procedure[ ] without which the likelihood of an accurate conviction is seriously diminished." Teague v. Lane, 489 U.S. 288, 307, 311–313 (1989) (plurality opinion); Butler v. McKellar, 494 U.S. 407, 415–416 (1990). Under the second exception it is "not enough under *Teague* to say that a new rule is aimed at improving the accuracy of a trial. More is required. A rule that qualifies under this exception must not only improve accuracy, but also 'alter our understanding of the *bedrock procedural elements*' essential to the fairness of a proceeding." Sawyer v. Smith, 497 U.S. 227, 242 (1990) (emphasis in original, internal quotation marks omitted). For recent application of the principles, *see* Schriro v. Summerlin, 542 U.S. 348 (2004) (requirement that aggravating factors justifying death penalty be found by the jury was a new procedural rule that does not apply retroactively).

[600] The standard that has been applied was enunciated in Chevron Oil Co. v. Huson, 404 U.S. 97 (1971). Briefly, the question of retroactivity or prospectivity was to be determined by a balancing of the equities. To be limited to prospectivity, a decision must have established a new principle of law, either by overruling clear past precedent on which reliance has been had or by deciding an issue of first im-