

## USSC *Metrich v Lancaster* Opinion recap Saying little on retroactivity



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### Analysis

Amid signs that the ruling was a very easy one to reach, the Supreme Court on Monday allowed the state of Michigan to deny a man accused of murder a legal defense that he previously had but then lost the right to use at a second trial. Allowing the withdrawal of a mental defect defense after the fact, the Court ruled unanimously, did not violate the man's constitutional rights to fair treatment. It took the Court less than four weeks to prepare that ruling.

Justice Ruth Bader Ginsburg wrote for the Court in *Metrich v. Lancaster* (docket 12-547), a case that had been argued on the final hearing day of the Term, on April 24. The decision, while interpreting generously the power of a state supreme court to cast aside a string of lower state court rulings allowing a legal defense, did not appear to make much new law on retroactivity doctrine.

This was a dispute over the availability of what is called the defense of “diminished capacity”—a legal argument, short of a claim of actual insanity, that an individual could not have formed the intent to commit a crime because of some mental defect at the time of the crime. It is sometimes known popularly as “the Twinkie defense,” a label it got from a famous California murder case in which the accused claimed that his over-indulgence in sugary treats was a sign of a mental disturbance that reduced his capacity for self-control.

The Justices had ruled, in the 2006 case of *Clark v. Arizona*, that states did not have a constitutional duty to allow the accused to put forth a diminished-capacity defense to a criminal charge. So the Court did not confront that issue anew on Monday; instead, the question it

resolved was whether it violated the right to due process to take away that defense retroactively. The Court found that it did not.

The case involved a former Detroit police officer, named Burt Lancaster (no relation to the late Hollywood actor of the same name), who had a history of mental disturbances. He was charged with murdering his girlfriend after he told his mother that he was going to do so because the girlfriend had lied to him. He shot her dead as she walked to a restaurant with a friend in Southfield, Michigan, in 1993.

At his first trial, he claimed actual insanity as well as a separate claim of diminished capacity. Neither worked for him, because the jury convicted him of first-degree murder and of using a gun in the crime. That conviction, however, was overturned because of the prosecutors' use of racial reasons for excluding a black juror.

By the time of his second trial, however, the Michigan Supreme Court had ruled that the legislature had taken away the diminished-capacity defense. So, when Lancaster's defense lawyer tried to make that defense at the new trial, the judge said he could not do so. Again, Lancaster was convicted, and was sentenced to life in prison, plus two years.

After failing in his challenge in state court, Lancaster took his case on to federal court, ultimately winning a decision by the Sixth Circuit Court that it was unconstitutional to deny him the chance to plead diminished capacity at his second trial, because that was a right he had at the time of his crime.

There was no doubt that the middle-level state appeals courts in Michigan had routinely recognized the diminished-capacity defense, and Lancaster had relied upon those decisions in his argument that the Michigan Supreme Court made an abrupt shift in the law and applied that change unfairly to him.

In overturning the Sixth Circuit's ruling in Lancaster's favor, the Justices on Monday accepted the argument that the Michigan Supreme Court itself had never explicitly authorized the lower courts to recognize the defense, and the argument that, in taking it away and applying it retroactively, the state court had simply relied upon an intervening law by the legislature failing to mention this particular defense.

Noting past precedents that had discussed retroactive application of court decisions, and raising some doubt about such an application, Justice Ginsburg said the decision by the state court in Lancaster's case was "a far cry" from that situation.

Near the close of the Ginsburg opinion, the Court laid out what appeared to be a summation of the legal theory it was applying to deny Lancaster's challenge. The opinion said: "where a state supreme court, squarely addressing a particular issue for the first time, rejected a consistent line of lower court decisions based on the supreme court's reasonable interpretation of the language of a controlling statute," there is no surprise to those who lose a right and there is no violation of due process.

"This Court," Ginsburg wrote, "has never found a due process violation in circumstances remotely resembling Lancaster's case."

By treating it as entirely unique on its facts and history, the Court found Lancaster's claim failed to justify the Sixth Circuit's ruling that his rights had been violated.

**This decision, in plain English:**

When an individual is accused of crime, prosecutors have to prove to a jury that the individual had actually intended to break the law, and thus should be held accountable for the crime. That is what lawyers and judges call "guilty knowledge." But the law also recognizes that some individuals do not have the mental capacity to control themselves, and they can use that lack of capacity as a defense to a criminal charge.

One such claim is outright insanity: a rather complete inability to form an intent to commit a crime, because of mental disease. But a majority of states also recognize a somewhat reduced claim of mental incapacity — "diminished capacity." In general, that is a claim that the individual, at the time of the crime, was afflicted with a mental disturbance that did not render him insane, as such, but significantly reduced his capacity to control his own behavior.

That is the legal defense that a Michigan man, Burt Lancaster, had made unsuccessfully at his first trial, but was denied any chance to claim it at a second trial, because the Michigan Supreme Court — in between the two trials — had ruled that the legislature had taken away that claim by simply not mentioning it in a broad rewriting of state criminal laws.

Lancaster won a decision in a federal appeals court that it was unconstitutional to take away that defense, at his second trial, because the withdrawal came as a surprise after the defense had been widely recognized in Michigan. But the Supreme Court on Monday overturned that decision, finding that the Michigan Supreme Court was entirely justified in interpreting state law as having withdrawn the defense in the interval between Lancaster's two trials.

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