

**05-595 WHORTON V. BOCKTING**

DECISION BELOW:399 F3d 1010

LOWER COURT CASE NUMBER: 02-15866

**QUESTIONS PRESENTED:**

- I. Whether, in direct conflict with the published opinions of the Second, Sixth, Seventh, and Tenth Circuits, the Ninth Circuit erred in holding that this Court's decision in *Crawford v. Washington*, 541 U.S. 36 (2004) regarding the admissibility of testimonial hearsay evidence under the Sixth Amendment, applies retroactively to cases on collateral review.
- II. Whether the Ninth Circuit's ruling that *Crawford* applies retroactively to cases on collateral review violates this Court's ruling in *Teague v. Lane*, 489 U.S. 288 (1989).
- III. Whether, in direct conflict with the published decisions of the Fourth and Seventh Circuits, the Ninth Circuit erred in holding that 28 U.S.C. § 2254 (d) (1) and (2) adopted the *Teague* exceptions for private conduct which is beyond criminal proscription and watershed rules.

CERT. GRANTED 5/15/2006