

BREYER, J., concurring in judgment

SUPREME COURT OF THE UNITED STATES

No. 02–516

JENNIFER GRATZ AND PATRICK HAMACHER,
PETITIONERS *v.* LEE BOLLINGER ET AL.

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

[June 23, 2003]

JUSTICE BREYER, concurring in the judgment.

I concur in the judgment of the Court though I do not join its opinion. I join JUSTICE O’CONNOR’S opinion except insofar as it joins that of the Court. I join Part I of JUSTICE GINSBURG’S dissenting opinion, but I do not dissent from the Court’s reversal of the District Court’s decision. I agree with JUSTICE GINSBURG that, in implementing the Constitution’s equality instruction, government decisionmakers may properly distinguish between policies of inclusion and exclusion, *post*, at 4, for the former are more likely to prove consistent with the basic constitutional obligation that the law respect each individual equally, see U. S. Const., Amdt. 14.