GINSBURG, J., concurring in judgment

## SUPREME COURT OF THE UNITED STATES

No. 09-658

JEFF PREMO, SUPERINTENDENT, OREGON STATE PENITENTIARY, PETITIONER v. RANDY JOSEPH MOORE

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

[January 19, 2011]

JUSTICE GINSBURG, concurring in the judgment.

To prevail under the prejudice requirement of *Strickland* v. *Washington*, 466 U. S. 668, 694 (1984), a petitioner for federal habeas corpus relief must demonstrate "a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial," *Hill* v. *Lockhart*, 474 U. S. 52, 59 (1985). As Moore's counsel confirmed at oral argument, see Tr. of Oral Arg. 32, Moore never declared that, better informed, he would have resisted the plea bargain and opted for trial. For that reason, I concur in the Court's judgment.