

GINSBURG, J., concurring

## SUPREME COURT OF THE UNITED STATES

No. 99–1994

NEVADA, ET AL., PETITIONERS *v.*  
FLOYD HICKS ET AL.

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

[June 25, 2001]

JUSTICE GINSBURG, concurring.

I join the Court’s opinion. As the Court plainly states, and as JUSTICE SOUTER recognizes, the “holding in this case is limited to the question of tribal-court jurisdiction over state officers enforcing state law.” *Ante*, at 4, n. 2 (opinion of the Court); *ante*, at 2 (SOUTER, J., concurring). The Court’s decision explicitly “leave[s] open the question of tribal-court jurisdiction over nonmember defendants in general,” *ante*, at 4, n. 2, including state officials engaged on tribal land in a venture or frolic of their own, see *ante*, at 19 (a state officer’s conduct on tribal land “unrelated to [performance of his law-enforcement duties] is potentially subject to tribal control”).

I write separately only to emphasize that *Strate v. A–1 Contractors*, 520 U. S. 438 (1997), similarly deferred larger issues. *Strate* concerned a highway accident on a right-of-way over tribal land. For nonmember governance purposes, the accident site was equivalent to alienated, non-Indian land. *Id.*, at 456. We held that the nonmember charged with negligent driving in *Strate* was not amenable to the Tribe’s legislative or adjudicatory authority. But we “express[ed] no view on the governing law or proper forum” for cases arising out of nonmember conduct on tribal land. *Id.*, at 442. The Court’s opinion, as I understand it, does not reach out definitively to answer the jurisdictional questions left open in *Strate*.