

THOMAS, J., dissenting

SUPREME COURT OF THE UNITED STATES

No. 02–1315

GARY LOCKE, GOVERNOR OF WASHINGTON, ET AL.,
PETITIONERS *v.* JOSHUA DAVEY

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

[February 25, 2004]

JUSTICE THOMAS, dissenting.

Because the parties agree that a “degree in theology” means a degree that is “devotional in nature or designed to induce religious faith,” Brief for Petitioners 6; Brief for Respondent 8, I assume that this is so for purposes of deciding this case. With this understanding, I join JUSTICE SCALIA’s dissenting opinion. I write separately to note that, in my view, the study of theology does not necessarily implicate religious devotion or faith. The contested statute denies Promise Scholarships to students who pursue “a degree in theology.” See Wash. Admin. Code §250–80–020(12)(g) (2003) (defining an “eligible student,” in part, as one who “[i]s not pursuing a degree in theology”); Wash. Rev. Code Ann. §28B.10.814 (West 1997) (“No aid shall be awarded to any student who is pursuing a degree in theology”). But the statute itself does not define “theology.” And the usual definition of the term “theology” is not limited to devotional studies. “Theology” is defined as “[t]he study of the nature of God and religious truth” and the “rational inquiry into religious questions.” American Heritage Dictionary 1794 (4th ed. 2000). See also Webster’s Ninth New Collegiate Dictionary 1223 (1991) (“the study of religious faith, practice, and experience” and “the study of God and his relation to the world”). These definitions include the study of theology

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from a secular perspective as well as from a religious one.

Assuming that the State denies Promise Scholarships only to students who pursue a degree in devotional theology, I believe that JUSTICE SCALIA's application of our precedents is correct. Because neither party contests the validity of these precedents, I join JUSTICE SCALIA's dissent.