Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

KANSAS *v.* CRANE

CERTIORARI TO THE SUPREME COURT OF KANSAS

No. 00–957. Argued October 30, 2001—Decided January 22, 2002

In upholding the constitutionality of the Kansas Sexually Violent Predator Act, this Court characterized a dangerous sexual offender's confinement as civil rather than criminal, *Kansas* v. *Hendricks,* 521 U. S. 346, 369, and held that the confinement criterion embodied in the statute's words "mental abnormality or personality disorder" satisfied substantive due process, *id.,* at 356, 360. Here, the Kansas District Court ordered the civil commitment of respondent Crane, a previously convicted sexual offender. In reversing, the State Supreme Court concluded that *Hendricks* requires a finding that the defendant cannot control his dangerous behavior—even if (as provided by Kansas law) problems of emotional, and not volitional, capacity prove the source of behavior warranting commitment. And the trial court had made no such finding.

Held: Hendricks set forth no requirement of *total* or *complete* lack of control, but the Constitution does not permit commitment of the type of dangerous sexual offender considered in *Hendricks* without *any* lack-of-control determination. *Hendricks* referred to the Act as requiring an abnormality or disorder that makes it "*difficult*, if not impossible, for the [dangerous] person to control his dangerous behavior." *Id.,* at 358 (emphasis added). The word "difficult" indicates that the lack of control was not absolute. Indeed, an absolutist approach is unworkable and would risk barring the civil commitment of highly dangerous persons suffering severe mental abnormalities. Yet a distinction between a dangerous sexual offender subject to civil commitment and "other dangerous persons who are perhaps more properly dealt with exclusively through criminal proceedings," *id.,* at 360, is necessary lest "civil commitment" become a "mechanism for retribution or general deterrence," *id.,* at 372–373. In *Hendricks*, this Court did not give "lack of control" a particularly narrow or technical

Syllabus

meaning, and in cases where it is at issue, "inability to control behavior" will not be demonstrable with mathematical precision. It is enough to say that there must be proof of serious difficulty in controlling behavior. The Constitution's liberty safeguards in the area of mental illness are not always best enforced through precise bright-line rules. States retain considerable leeway in defining the mental abnormalities and personality disorders that make an individual eligible for commitment; and psychiatry, which informs but does not control ultimate legal determinations, is an ever-advancing science, whose distinctions do not seek precisely to mirror those of the law. Consequently, the Court has sought to provide constitutional guidance in this area by proceeding deliberately and contextually, elaborating generally stated constitutional standards and objectives as specific circumstances require, the approach embodied in *Henricks*. That *Hendricks* limited its discussion to volitional disabilities is not surprising, as the case involved pedophilia—a mental abnormality involving what a lay person might describe as a lack of control. But when considering civil commitment, the Court has not ordinarily distinguished for constitutional purposes between volitional, emotional, and cognitive impairments. See, *e.g., Jones* v. *United States,* 463 U. S. 354. The Court in *Hendricks* had no occasion to consider whether confinement based solely on "emotional" abnormality would be constitutional, and has no occasion to do so here. Pp. 4–8.

269 Kan. 578, 7 P. 3d 285, vacated and remanded.

BREYER, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and STEVENS, O'CONNOR, KENNEDY, SOUTER, and GINSBURG, JJ., joined. SCALIA, J., filed a dissenting opinion, in which THOMAS, J., joined.