

GINSBURG, J., concurring

SUPREME COURT OF THE UNITED STATES

No. 05–1631

TIMOTHY SCOTT, PETITIONER *v.* VICTOR HARRIS

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

[April 30, 2007]

JUSTICE GINSBURG, concurring.

I join the Court’s opinion and would underscore two points. First, I do not read today’s decision as articulating a mechanical, *per se* rule. Cf. *post*, at 3 (BREYER, J., concurring). The inquiry described by the Court, *ante*, at 10–13, is situation specific. Among relevant considerations: Were the lives and well-being of others (motorists, pedestrians, police officers) at risk? Was there a safer way, given the time, place, and circumstances, to stop the fleeing vehicle? “[A]dmirable” as “[an] attempt to craft an easy-to-apply legal test in the Fourth Amendment context [may be],” the Court explains, “in the end we must still slosh our way through the factbound morass of ‘reasonableness.’” *Ante*, at 10.

Second, were this case suitable for resolution on qualified immunity grounds, without reaching the constitutional question, JUSTICE BREYER’s discussion would be engaging. See *post*, at 1–3 (urging the Court to overrule *Saucier v. Katz*, 533 U. S. 194 (2001)). In joining the Court’s opinion, however, JUSTICE BREYER apparently shares the view that, in the appeal before us, the constitutional question warrants an answer. The video footage of the car chase, he agrees, demonstrates that the officer’s conduct did not transgress Fourth Amendment limitations. See *post*, at 1. Confronting *Saucier*, therefore, is properly reserved for another day and case. See *ante*, at 4, n. 4.