

ROBERTS, C. J., concurring

SUPREME COURT OF THE UNITED STATES

No. 08–472

KEN L. SALAZAR, SECRETARY OF THE INTERIOR,
ET AL., PETITIONERS *v.* FRANK BUONO

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

[April 28, 2010]

CHIEF JUSTICE ROBERTS, concurring.

At oral argument, respondent’s counsel stated that it “likely would be consistent with the injunction” for the Government to tear down the cross, sell the land to the Veterans of Foreign Wars, and return the cross to them, with the VFW immediately raising the cross again. Tr. of Oral Arg. 44. I do not see how it can make a difference for the Government to skip that empty ritual and do what Congress told it to do—sell the land with the cross on it. “The Constitution deals with substance, not shadows.” *Cummings v. Missouri*, 4 Wall. 277, 325 (1867).