

Opinion of GINSBURG, J.

SUPREME COURT OF THE UNITED STATES

No. 98–1441

ERNEST C. ROE, WARDEN, PETITIONER v. LUCIO
FLORES-ORTEGA

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

[February 23, 2000]

JUSTICE GINSBURG, concurring in part and dissenting in part.

This case presents the question whether, after a defendant pleads guilty or is convicted, the Sixth Amendment permits defense counsel simply to walk away, leaving the defendant uncounseled about his appeal rights. The Court is not deeply divided on this question. Both the Court and JUSTICE SOUTER effectively respond: hardly ever. Because the test articulated by JUSTICE SOUTER provides clearer guidance to lower courts and to counsel, and because I think it plain that the duty to consult was not satisfied in this case, I join JUSTICE SOUTER's opinion.