

SCALIA, J., concurring

SUPREME COURT OF THE UNITED STATES

No. 01–1231

CONNECTICUT DEPARTMENT OF PUBLIC SAFETY,
ET AL., PETITIONERS *v.* JOHN DOE, INDIVIDUALLY AND
ON BEHALF OF ALL OTHERS SIMILARLY SITUATED

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

[March 5, 2003]

JUSTICE SCALIA, concurring.

I join the Court’s opinion, and add that even if the requirements of Connecticut’s sex offender registration law implicate a liberty interest of respondent, the categorical abrogation of that liberty interest by a validly enacted statute suffices to provide all the process that is “due”—just as a state law providing that no one under the age of 16 may operate a motor vehicle suffices to abrogate that liberty interest. Absent a claim (which respondent has not made here) that the liberty interest in question is so fundamental as to implicate so-called “substantive” due process, a properly enacted law can eliminate it. That is ultimately why, as the Court’s opinion demonstrates, a convicted sex offender has no more right to additional “process” enabling him to establish that he is not dangerous than (in the analogous case just suggested) a 15-year-old has a right to “process” enabling him to establish that he is a safe driver.