SUPREME COURT OF THE UNITED STATES

No. 02–1371

MISSOURI, PETITIONER *v.* PATRICE SEIBERT

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF MISSOURI

[June 28, 2004]

JUSTICE BREYER, concurring.

In my view, the following simple rule should apply to the two-stage interrogation technique: Courts should exclude the "fruits" of the initial unwarned questioning unless the failure to warn was in good faith. Cf. *Oregon* v. *Elstad*, 470 U. S. 298, 309, 318, n. 5 (1985); *United States* v. *Leon*, 468 U. S. 897 (1984). I believe this is a sound and workable approach to the problem this case presents. Prosecutors and judges have long understood how to apply the "fruits" approach, which they use in other areas of law. See *Wong Sun* v. *United States*, 371 U. S. 471 (1963). And in the workaday world of criminal law enforcement the administrative simplicity of the familiar has significant advantages over a more complex exclusionary rule. Cf. *post*, at 6–7 (O'CONNOR, J., dissenting).

I believe the plurality's approach in practice will function as a "fruits" test. The truly "effective" *Miranda* warnings on which the plurality insists, *ante*, at 13–14, will occur only when certain circumstances—a lapse in time, a change in location or interrogating officer, or a shift in the focus of the questioning—intervene between the unwarned questioning and any postwarning statement. Cf. *Taylor* v. *Alabama*, 457 U. S. 687, 690 (1982) (evidence obtained subsequent to a constitutional violation must be suppressed as "fruit of the poisonous tree" unless "intervening events break the causal connection").

I consequently join the plurality's opinion in full. I also agree with JUSTICE KENNEDY's opinion insofar as it is consistent with this approach and makes clear that a good-faith exception applies. See *post*, at 5 (opinion concurring in judgment).