

KENNEDY, J., dissenting

SUPREME COURT OF THE UNITED STATES

DENVER A. YOUNGBLOOD, JR. *v.* WEST VIRGINIA

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME
COURT OF APPEALS OF WEST VIRGINIA

No. 05–6997. Decided June 19, 2006

JUSTICE KENNEDY, dissenting.

The Court’s order to grant, vacate, and remand (GVR) in *Lawrence v. Chater*, 516 U. S. 163 (1996) (*per curiam*), had my assent. In that case there was a new administrative interpretation that the Court of Appeals did not have an opportunity to consider. *Id.*, at 174. The Court today extends the GVR procedure well beyond *Lawrence* and the traditional practice of issuing a GVR order in light of some new development. See *id.*, at 166–167. Since the issuance of a GVR order simply for further explanation is, as JUSTICE SCALIA explains, see *ante*, p. ____, both improper and contrary to our precedents, I respectfully dissent.