

SCALIA, J., concurring

SUPREME COURT OF THE UNITED STATES

No. 97–6203

NATHANIEL JONES, PETITIONER v. UNITED STATES

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

[March 24, 1999]

JUSTICE SCALIA, concurring.

In dissenting in *Almendarez-Torres v. United States*, 118 S. Ct. 1219 (1998), I suggested the possibility, and in dissenting in *Monge v. California*, 118 S. Ct. 2246, 2255–2257 (1998), I set forth as my considered view, that it is unconstitutional to remove from the jury the assessment of facts that alter the congressionally prescribed range of penalties to which a criminal defendant is exposed. Because I think it necessary to resolve all ambiguities in criminal statutes in such fashion as to avoid violation of this constitutional principle, I join the opinion of the Court.