

SUPREME COURT OF THE UNITED STATES

No. 92-351

LEONARD HELLER, SECRETARY, KENTUCKY CABINET
FOR HUMAN RESOURCES, PETI-
TIONER v. SAMUEL DOE, BY HIS MOTHER
AND NEXT FRIEND, MARY DOE, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT
[June 24, 1993]

JUSTICE O'CONNOR, concurring in the judgment in part
and dissenting in part.

I agree with JUSTICE SOUTER that Kentucky's differential standard of proof for committing the mentally ill and the mentally retarded is irrational and therefore join Part II of his opinion. I conclude, however, that there is a rational basis for permitting close relatives and guardians to participate as parties in proceedings to commit the mentally retarded but not the mentally ill. As the Court points out, there are sufficiently plausible and legitimate reasons for the legislative determination in this area. I also agree with the Court that allowing guardians and immediate family members to participate as parties in commitment proceedings does not violate procedural due process. Like my colleagues, I would not reach the question whether heightened equal protection scrutiny should be applied to the Kentucky scheme.