

THOMAS, J., concurring

SUPREME COURT OF THE UNITED STATES

Nos. 99–5 and 99–29

99–5 UNITED STATES, PETITIONER
v.
ANTONIO J. MORRISON ET AL.

99–29 CHRISTY BRZONKALA, PETITIONER
v.
ANTONIO J. MORRISON ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FOURTH CIRCUIT

[May 15, 2000]

JUSTICE THOMAS, concurring.

The majority opinion correctly applies our decision in *United States v. Lopez*, 514 U. S. 549 (1995), and I join it in full. I write separately only to express my view that the very notion of a “substantial effects” test under the Commerce Clause is inconsistent with the original understanding of Congress’ powers and with this Court’s early Commerce Clause cases. By continuing to apply this rootless and malleable standard, however circumscribed, the Court has encouraged the Federal Government to persist in its view that the Commerce Clause has virtually no limits. Until this Court replaces its existing Commerce Clause jurisprudence with a standard more consistent with the original understanding, we will continue to see Congress appropriating state police powers under the guise of regulating commerce.