SUPREME COURT OF THE UNITED STATES

No. 01–488

TIMOTHY STUART RING, PETITIONER *v.* ARIZONA

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF ARIZONA

[June 24, 2002]

JUSTICE KENNEDY, concurring.

Though it is still my view that *Apprendi* v. *New Jersey,* 530 U. S. 466 (2000), was wrongly decided, *Apprendi* is now the law, and its holding must be implemented in a principled way. As the Court suggests, no principled reading of *Apprendi* would allow *Walton* v. *Arizona,* 497 U. S. 639 (1990), to stand. It is beyond question that during the penalty phase of a first-degree murder prosecution in Arizona, the finding of an aggravating circumstance exposes "the defendant to a greater punishment than that authorized by the jury's guilty verdict." *Apprendi, supra,* at 494. When a finding has this effect, *Apprendi* makes clear, it cannot be reserved for the judge.

This is not to say *Apprendi* should be extended without caution, for the States' settled expectations deserve our respect. A sound understanding of the Sixth Amendment will allow States to respond to the needs and realities of criminal justice administration, and *Apprendi* can be read as leaving in place many reforms designed to reduce unfairness in sentencing. I agree with the Court, however, that *Apprendi* and *Walton* cannot stand together as the law.

With these observations I join the opinion of the Court.