

BREYER, J., concurring

SUPREME COURT OF THE UNITED STATES

No. 98-1441

ERNEST C. ROE, WARDEN, PETITIONER v. LUCIO
FLORES-ORTEGA

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

[February 23, 2000]

JUSTICE BREYER, concurring.

I write to emphasize that the question presented concerned the filing of a “notice of appeal *following a guilty plea.*” Pet. for Cert. i (emphasis added). In that context I agree with the Court. I also join its opinion, which, in my view, makes clear that counsel does “almost always” have a constitutional duty to consult with a defendant about an appeal after a trial. *Post*, at 1 (SOUTER, J., concurring in part and dissenting in part); cf. *ante*, at 7–9.