

SCALIA, J., concurring

SUPREME COURT OF THE UNITED STATES

No. 97-1709

KUMHO TIRE COMPANY, LTD., ET AL., PETITIONERS
v. PATRICK CARMICHAEL, ETC., ET AL.

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

[March 23, 1999]

JUSTICE SCALIA, with whom JUSTICE O'CONNOR and
JUSTICE THOMAS join, concurring.

I join the opinion of the Court, which makes clear that the discretion it endorses— trial-court discretion in choosing the manner of testing expert reliability— is not discretion to abandon the gatekeeping function. I think it worth adding that it is not discretion to perform the function inadequately. Rather, it is discretion to choose among *reasonable* means of excluding expertise that is *fausse* and science that is junky. Though, as the Court makes clear today, the *Daubert* factors are not holy writ, in a particular case the failure to apply one or another of them may be unreasonable, and hence an abuse of discretion.