

Opinion of STEVENS, J.

**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 STEVENS, concurring in part and dissenting in part.

The only question that we granted certiorari to decide is whether a trial judge “[m]ay . . . consider the four factors set out by this Court in *Daubert v. Merrill Dow Pharmaceuticals, Inc.*, 509 U. S. 579 (1993), in a Rule 702 analysis of admissibility of an engineering expert’s testimony.” Pet. for Cert. i. That question is fully and correctly answered in Parts I and II of the Court’s opinion, which I join.

Part III answers the quite different question whether the trial judge abused his discretion when he excluded the testimony of Dennis Carlson. Because a proper answer to that question requires a study of the record that can be performed more efficiently by the Court of Appeals than by the nine Members of this Court, I would remand the case to the Eleventh Circuit to perform that task. There are, of course, exceptions to most rules, but I firmly believe that it is neither fair to litigants nor good practice for this Court to reach out to decide questions not raised by the certiorari petition. See *General Electric Co. v. Joiner*, 522 U. S. 136, 150–151 (1997) (STEVENS, J., concurring in part and dissenting in part).

Accordingly, while I do not feel qualified to disagree with the well-reasoned factual analysis in Part III of the Court’s opinion, I do not join that Part, and I respectfully dissent from the Court’s disposition of the case.