

Smith v. United States

113 S.Ct. 2050 (1993)

Justice O'CONNOR delivered the opinion of the Court, in an opinion joined by Justices White, Kennedy, Thomas, Blackmun, and Chief Justice Rehnquist.

We decide today whether the exchange of a gun for narcotics constitutes

"use" of a firearm "during and in relation to ... [a] drug trafficking crime" within the meaning of 18 U.S.C. §924(c)(1). We hold that it does. [18 United States Code §924 is a federal statute that provides for sentence enhancements in certain circumstances.¹ The trial court had found Smith guilty of the underlying offense of drug trafficking, and that decision was not before the Supreme Court in this case. The question, instead, was whether conduct such as Smith's met the statutory requirements for an enhanced sentence. If so, five years would be added to Smith's sentence.]

I

Petitioner John Angus Smith and his companion went from Tennessee to Florida to buy cocaine; they hoped to resell it at a profit. While in Florida, they met petitioner's acquaintance, Deborah Hoag. Hoag agreed to, and in fact did, purchase cocaine for petitioner. She then accompanied petitioner and his friend to her motel room, where they were joined by a drug dealer. While Hoag listened, petitioner and the dealer discussed petitioner's MAC-10 firearm... The dealer expressed his interest in becoming the owner of a MAC-10...

Unfortunately for petitioner, Hoag had contacts not only with narcotics traffickers but also with law enforcement officials... [S]he informed the Broward County Sheriff's Office of petitioner's activities. The Sheriff's Office responded quickly, sending an undercover officer to Hoag's motel room... [T]he undercover officer presented himself to petitioner as a pawnshop dealer. Petitioner...presented the officer with a proposition: He had an automatic MAC-10 and silencer with which he might be willing to part. Petitioner then pulled the MAC-10 out of a black canvas bag and showed it to the officer... Rather than asking for money, however, petitioner asked for drugs. He was

¹The relevant language of the statute provides:

Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for five years, and if the firearm is a short-barreled rifle or short-barreled shotgun to imprisonment for ten years, and if the firearm is a machinegun, or a destructive device, or is equipped with a firearm silence or firearm muffler, to imprisonment for thirty years.

willing to trade his MAC-10, he said, for two ounces of cocaine. The officer told petitioner that he was just a pawnshop dealer and did not distribute narcotics. Nonetheless, he indicated that he wanted the MAC-10 and would try to get the cocaine. The officer then left, promising to return within an hour...[b]ut petitioner was not content to wait. The officers who were conducting surveillance saw him leave the motel room carrying a gun bag... Petitioner eventually was apprehended...

A grand jury...returned an indictment charging petitioner with, among other offenses, two drug trafficking crimes... Most important here, the indictment alleged that petitioner knowingly used the MAC-10 and its silencer during and in relation to a drug trafficking crime... The jury convicted petitioner on all counts.

On appeal, petitioner argued that §924(c)(1)'s penalty...covers only situations in which the firearm is used as a weapon. According to petitioner, the provision does not extend to defendants who use a firearm solely as a medium of exchange or for barter... The plain language of the statute, the [appellate] court explained, imposes no requirement that the firearm be used as a weapon. Instead, any use of "the weapon to facilitate in any manner the commission of the offense" suffices...

II

Section 924(c)(1) requires the imposition of specified penalties if the defendant, "during and in relation to any crime of violence or drug trafficking crime[,] uses or carries a firearm." By its terms, the statute requires the prosecution to make two showings. First, the prosecution must demonstrate that the defendant "use[d] or carrie[d] a firearm." Second, it must prove that the use or carrying was "during and in relation to" a "crime of violence or drug trafficking crime."

A

Petitioner argues that exchanging a firearm for drugs does not constitute "use" of the firearm within the meaning of the statute. He points out that nothing in the record indicates that he fired the MAC-10, threatened anyone with it, or employed it for self-protection. In essence, petitioner argues that he cannot be said to have "use[d]" a firearm unless he used it as a weapon, since that is how firearms most often are used... [W]e confine our discussion to what the parties view as the dispositive issue in this case: whether trading a firearm for drugs can constitute "use" of the firearm within the meaning of §924(c)(1).

When a word is not defined by statute, we normally construe it in accord with its ordinary or natural meaning... Surely petitioner's treatment of his MAC-10 can be described as "use" within the every day meaning of that term. Petitioner "used" his MAC-10 in an attempt to obtain drugs by offering

to trade it for cocaine. Webster's defines "to use" as "[t]o convert to one's service" or "to employ."... Black's Law Dictionary contains a similar definition: "[t]o make use of; to convert to one's service; to employ; to avail oneself of; to utilize; to carry out a purpose or action by means of."... Petitioner's handling of the MAC-10 in this case falls squarely within those definitions. By attempting to trade his MAC-10 for the drugs, he "used" or "employed" it as an item of barter to obtain cocaine; he "derived service" from it because it was going to bring him the very drugs he sought.

In petitioner's view, §924(c)(1) should require proof not only that the defendant used the firearm but also that he used it as a weapon. But the words "as a weapon" appear nowhere in the statute. Rather, §924(c)(1)'s language sweeps broadly, punishing any "us[e]" of a firearm, so long as the use is "during and in relation to" a drug trafficking offense... Had Congress intended the narrow construction petitioner urges, it could have so indicated...

Language, of course, cannot be interpreted apart from context. The meaning of a word that appears ambiguous if viewed in isolation may become clear when the word is analyzed in light of the terms that surround it. Recognizing this, petitioner and the dissent... contend that the average person on the street would not think immediately of a guns-for-drugs trade as an example of "us[ing] a firearm." Rather, that phrase normally evokes an image of the most familiar use to which a firearm is put – use as a weapon. Petitioner and the dissent therefore argue that the statute excludes uses where the weapon is not... employed for its destructive capacity... Indeed, relying on that argument – and without citation to authority – the dissent announces its own, restrictive definition of "use." "To use an instrumentality," the dissent argues, "ordinarily means to use it for its intended purpose."...

There is a significant flaw to this argument. It is one thing to say that the ordinary meaning of "uses a firearm" includes using a firearm as a weapon, since that is the intended purpose of a firearm and the example of "use" that most immediately comes to mind. But it is quite another to conclude that, as a result, the phrase also excludes any other use... In any event, the only question in this case is whether the phrase "uses ... a firearm" in §924(c)(1) is most reasonably read as excluding the use of a firearm in a gun-for-drugs trade. The fact that the phrase clearly includes using a firearm to shoot someone, as the dissent contends, does not answer it....

We are not persuaded that our construction of the phrase "uses ... a firearm" will produce anomalous applications... Although scratching one's head with a gun might constitute "use," that action cannot support punishment under §924(c)(1) unless it facilitates or furthers the drug crime...

In any event, the "intended purpose" of a firearm is not that it be used

in any offensive manner whatever, but rather that it be used in a particular fashion – by firing it. The dissent's contention therefore cannot be that the defendant must use the firearm "as a weapon," but rather that he must fire it or threaten to fire it, "as a gun." Under the dissent's approach, then, even the criminal who pistol-whips his victim has not used a firearm within the meaning of §924(c)(1), for firearms are intended to be fired or brandished, not used as bludgeons...

To the extent there is uncertainty about the scope of the phrase "uses ... a firearm" in §924(c)(1), we believe the remainder of §924 appropriately sets it to rest. Just as a single word cannot be read in isolation, nor can a single provision of a statute. As we have recognized:

"Statutory construction ... is a holistic endeavor. A provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme... *United Savings Assn. of Texas v. Timbers of Inwood Forest Associates, Ltd.*...

Here, Congress employed the words "use" and "firearm" together not only in §924(c)(1), but also in §924(d)(1), which deals with forfeiture of firearms... Under §924(d)(1), any "firearm or ammunition intended to be used" in the various offenses listed in §924(d)(3) is subject to seizure and forfeiture. Consistent with petitioner's interpretation, §924(d)(3) lists offenses in which guns might be used as offensive weapons... But it also lists offenses in which the firearm is not used as a weapon but instead as an item of barter or commerce... Unless we are to hold that using a firearm has a different meaning in §924(c)(1) than it does in §924(d) – and clearly we should not... – we must reject petitioner's narrow interpretation...

The dissent suggests that our interpretation produces a "strange dichotomy" between "using" a firearm and "carrying" one... We do not see why that is so. Just as a defendant may "use" a firearm within the meaning of §924(c)(1) by trading it for drugs or using it to shoot someone, so too would a defendant "carry" the firearm by keeping it on his person whether he intends to exchange it for cocaine or fire it in self-defense. The dichotomy arises, if at all, only when one tries to extend the phrase "uses ... a firearm" to any use "for any purpose whatever."...

Finally, it is argued that §924(c)(1) originally dealt with use of a firearm during crimes of violence; the provision concerning use of a firearm during and in relation to drug trafficking offenses was added later... From this, the dissent infers that "use" originally was limited to use of a gun "as a weapon.".... [But] Because the phrase "uses ... a firearm" is broad enough in ordinary usage to cover use of a firearm as an item of barter or commerce, Congress was free in 1986 so to employ it... Accordingly, we conclude that using a firearm in a

guns-for-drugs trade may constitute "us[ing] a firearm" within the meaning of §924(c)(1).

B

* * * [P]etitioner insists that the relationship between the gun and the drug offense in this case is not the type of connection Congress contemplated when it drafted §924(c)(1). With respect to that argument, we agree with the District of Columbia Circuit's observation:

"It may well be that Congress, when it drafted the language of §924(c), had in mind a more obvious use of guns in connection with a drug crime, but the language [of the statute] is not so limited[;] nor can we imagine any reason why Congress would not have wished its language to cover this situation. Whether guns are used as the medium of exchange for drugs sold illegally or as a means to protect the transaction or dealers, their introduction into the scene of drug transactions dramatically heightens the danger to society." *Harris*...

C

Finally, the dissent and petitioner invoke the rule of lenity... The mere possibility of articulating a narrower construction, however, does not by itself make the rule of lenity applicable. Instead, that venerable rule is reserved for cases where, "[a]fter 'seiz[ing] every thing from which aid can be derived,' " the Court is "left with an ambiguous statute." *United States v. Bass*... This is not such a case. Not only does petitioner's use of his MAC-10 fall squarely within the common usage and dictionary definitions of the terms "uses ... a firearm," but Congress affirmatively demonstrated that it meant to include transactions like petitioner's as "us[ing] a firearm" by so employing those terms in §924(d).

Imposing a more restrictive reading of the phrase "uses ... a firearm" does violence not only to the structure and language of the statute, but to its purpose as well. When Congress enacted the current version of §924(c)(1), it was no doubt aware that drugs and guns are a dangerous combination. In 1989, 56 percent of all murders in New York City were drug related; during the same period, the figure for the Nation's Capital was as high as 80 percent. *The American Enterprise* 100 (Jan.-Feb. 1991). The fact that a gun is treated momentarily as an item of commerce does not render it inert or deprive it of destructive capacity. Rather, as experience demonstrates, it can be converted instantaneously from currency to cannon. We therefore see no reason why Congress would have intended courts and juries applying §924(c)(1) to draw a fine metaphysical distinction between a gun's role in a drug offense as a weapon and its role as an item of barter; it creates a grave possibility of violence and death in either capacity.

We have observed that the rule of lenity "cannot dictate an implausible interpretation of a statute, nor one at odds with the generally accepted contemporary meaning of a term." *Taylor v. United States*. That observation controls this case. Both a firearm's use as a weapon and its use as an item of barter fall within the plain language of §924(c)(1), so long as the use occurs during and in relation to a drug trafficking offense; both must constitute "uses" of a firearm for §924(d)(1) to make any sense at all; and both create the very dangers and risks that Congress meant §924(c)(1) to address. We therefore hold that a criminal who trades his firearm for drugs "uses" it during and in relation to a drug trafficking offense within the meaning of §924(c)(1). Because the evidence in this case showed that petitioner "used" his MAC-10 machine gun and silencer in precisely such a manner, proposing to trade them for cocaine, petitioner properly was subjected to §924(c)(1)'s 30-year mandatory minimum sentence. The judgment of the Court of Appeals, accordingly, is affirmed.

It is so ordered.

[Short concurrence by Justice Blackmun omitted.]

Justice SCALIA (joined by Justices Stevens and Souter), dissenting.

Section 924(c)(1) mandates a sentence enhancement for any defendant who "during and in relation to any crime of violence or drug trafficking crime ... uses ... a firearm." ... The Court begins its analysis by focusing upon the word "use" in this passage, and explaining that the dictionary definitions of that word are very broad... It is, however, a "fundamental principle of statutory construction (and, indeed, of language itself) that the meaning of a word cannot be determined in isolation, but must be drawn from the context in which it is used." *Deal v. United States*... That is particularly true of a word as elastic as "use," whose meanings range all the way from "to partake of" (as in "he uses tobacco") to "to be wont or accustomed" (as in "he used to smoke tobacco")...

In the search for statutory meaning, we give nontechnical words and phrases their ordinary meaning... To use an instrumentality ordinarily means to use it for its intended purpose. When someone asks "Do you use a cane?" he is not inquiring whether you have your grandfather's silver-handled walking-stick on display in the hall; he wants to know whether you walk with a cane. Similarly, to speak of "using a firearm" is to speak of using it for its distinctive purpose, i.e., as a weapon. To be sure, "one can use a firearm in a number of ways,"...including as an article of exchange...but that is not the ordinary meaning of "using" the one or the other.¹ The Court does not appear

¹The Court asserts that the "significant flaw" in this argument is that "to say that the ordinary meaning of 'uses a firearm' includes using a firearm as a weapon" is quite different from saying that the ordinary meaning "also excludes

to grasp the distinction between how a word can be used and how it ordinarily is used. It would, indeed, be "both reasonable and normal to say that petitioner 'used' his MAC-10 in his drug trafficking offense by trading it for cocaine." It would also be reasonable and normal to say that he "used" it to scratch his head. When one wishes to describe the action of employing the instrument of a firearm for such unusual purposes, "use" is assuredly a verb one could select. But that says nothing about whether the ordinary meaning of the phrase "uses a firearm" embraces such extraordinary employments. It is unquestionably not reasonable and normal, I think, to say simply "do not use firearms" when one means to prohibit selling or scratching with them....

Given our rule that ordinary meaning governs, and given the ordinary meaning of "uses a firearm," it seems to me inconsequential that "the words 'as a weapon' appear nowhere in the statute,"...they are reasonably implicit. Petitioner is not, I think, seeking to introduce an "additional requirement" into the text...but is simply construing the text according to its normal import.

The Court seeks to avoid this conclusion by referring to the next subsection of the statute, §924(d), which does not employ the phrase "uses a firearm," but provides for the confiscation of firearms that are "used in" referenced offenses which include the crimes of transferring, selling, or transporting firearms in interstate commerce. The Court concludes from this that whenever the term appears in this statute, "use" of a firearm must include nonweapon use... I do not agree. We are dealing here not with a technical word or an "artfully defined" legal term...but with common words that are...inordinately sensitive to context. Just as adding the direct object "a firearm" to the verb "use" narrows the meaning of that verb (it can no longer mean "partake of"), so also adding the modifier "in the offense of transferring, selling, or transporting firearms" to the phrase "use a firearm" expands the meaning of that phrase (it then includes, as it previously would not, nonweapon use). But neither the narrowing nor the expansion should logically be thought to apply to all appearances of the affected word or phrase. Just as every appearance of the word "use" in the statute need not be given the narrow meaning that word acquires in the phrase "use a firearm," so also every appearance of the phrase "use a firearm" need not be given the expansive

any other use." The two are indeed different -- but it is precisely the latter that I assert to be true: The ordinary meaning of "uses a firearm" does not include using it as an article of commerce. I think it perfectly obvious, for example, that the objective falsity requirement for a perjury conviction would not be satisfied if a witness answered "no" to a prosecutor's inquiry whether he had ever "used a firearm," even though he had once sold his grandfather's Enfield rifle to a collector.

connotation that phrase acquires in the broader context "use a firearm in crimes such as unlawful sale of firearms." When, for example, the statute provides that its prohibition on certain transactions in firearms "shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes," 18 U.S.C. ss 922(a)(5)(B), (b)(3)(B), I have no doubt that the "use" referred to is only use as a sporting weapon, and not the use of pawning the firearm to pay for a ski trip. Likewise when, in §924(c)(1), the phrase "uses ... a firearm" is not employed in a context that necessarily envisions the unusual "use" of a firearm as a commodity, the normally understood meaning of the phrase should prevail.

Another consideration leads to the same conclusion: §924(c)(1) provides increased penalties not only for one who "uses" a firearm during and in relation to any crime of violence or drug trafficking crime, but also for one who "carries" a firearm in those circumstances. The interpretation I would give the language produces an eminently reasonable dichotomy between "using a firearm" (as a weapon) and "carrying a firearm" (which in the context "uses or carries a firearm" means carrying it in such manner as to be ready for use as a weapon). The Court's interpretation, by contrast, produces a strange dichotomy between "using a firearm for any purpose whatever, including barter," and "carrying a firearm."... [footnote omitted]

Finally, although the present prosecution was brought under the portion of §924(c)(1) pertaining to use of a firearm "during and in relation to any ... drug trafficking crime," I think it significant that that portion is affiliated with the pre-existing provision pertaining to use of a firearm "during and in relation to any crime of violence," rather than with the firearm-trafficking offenses defined in §922 and referenced in §924(d). The word "use" in the "crime of violence" context has the unmistakable import of use as a weapon, and that import carries over, in my view, to the subsequently added phrase "or drug trafficking crime." Surely the word "use" means the same thing as to both, and surely the 1986 addition of "drug trafficking crime" would have been a peculiar way to expand its meaning (beyond "use as a weapon") for crimes of violence.

Even if the reader does not consider the issue to be as clear as I do, he must at least acknowledge, I think, that it is eminently debatable – and that is enough, under the rule of lenity, to require finding for the petitioner here. "At the very least, it may be said that the issue is subject to some doubt. Under these circumstances, we adhere to the familiar rule that, 'where there is ambiguity in a criminal statute, doubts are resolved in favor of the defendant.'" *Adamo Wrecking Co. v. United States*...

For the foregoing reasons, I respectfully dissent.