

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

DEAN *v.* UNITED STATESCERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE ELEVENTH CIRCUIT

No. 08–5274. Argued March 4, 2009—Decided April 29, 2009

An individual convicted for using or carrying a firearm during and in relation to any violent or drug trafficking crime, or possessing a firearm in furtherance of such a crime, receives a 5-year mandatory minimum sentence, in addition to the punishment for the underlying crime. 18 U. S. C. §924(c)(1)(A)(i). The mandatory minimum increases to 7 years “if the firearm is brandished” and to 10 years “if the firearm is discharged.” §§924(c)(1)(A)(ii), (iii).

Petitioner Dean was convicted of conspiring to commit a bank robbery and discharging a firearm during an armed robbery. Because the firearm was “discharged” during the robbery, Dean was sentenced to a 10-year mandatory minimum prison term on the firearm count. §924(c)(1)(A)(iii). On appeal, he contended that the discharge was accidental, and that §924(c)(1)(A)(iii) requires proof that the defendant intended to discharge the firearm. The Eleventh Circuit affirmed, holding that no proof of intent is required.

Held: Section 924(c)(1)(A)(iii) requires no separate proof of intent. The 10-year mandatory minimum applies if a gun is discharged in the course of a violent or drug trafficking crime, whether on purpose or by accident. Pp. 2–9.

(a) Subsection (iii) provides a minimum 10-year sentence “if the firearm is discharged.” It does not require that the discharge be done knowingly or intentionally, or otherwise contain words of limitation. This Court “ordinarily resist[s] reading words or elements into a statute that do not appear on its face.” *Bates v. United States*, 522 U. S. 23, 29. Congress’s use of the passive voice further indicates that subsection (iii) does not require proof of intent. Cf. *Watson v. United States*, 552 U. S. ___, ___. The statute’s structure also suggests no such limitation. Congress expressly included an intent re-

Syllabus

quirement for the 7-year mandatory minimum for brandishing a firearm by separately defining “brandish” to require that the firearm be displayed “in order to intimidate” another person. §924(c)(4). Congress did not, however, separately define “discharge” to include an intent requirement. It is generally presumed that Congress acts intentionally when including particular language in one section of a statute but not in another. *Russello v. United States*, 464 U. S. 16, 23. Contrary to Dean’s contention, the phrase “during and in relation to” in the opening paragraph of §924(c)(1)(A) does not modify “is discharged,” which appears in a separate subsection and in a different voice than the principal paragraph. “[I]n relation to” is most naturally read to modify only the nearby verbs “uses” and “carries.” This reading will not lead to the absurd results posited by Dean. Pp. 3–6.

(b) Dean argues that subsection (iii) must be limited to intentional discharges in order to give effect to the statute’s progression of harsher penalties for increasingly culpable conduct. While it is unusual to impose criminal punishment for the consequences of purely accidental conduct, it is not unusual to punish individuals for the unintended consequences of their *unlawful* acts. The fact that the discharge may be accidental does not mean that the defendant is blameless. The sentencing enhancement accounts for the risk of harm resulting from the manner in which the crime is carried out, for which the defendant is responsible. See *Harris v. United States*, 536 U. S. 545, 553. An individual bringing a loaded weapon to commit a crime runs the risk that the gun will discharge accidentally. A gunshot—whether accidental or intended—increases the risk that others will be injured, that people will panic, or that violence will be used in response. It also traumatizes bystanders, as it did here. Pp. 6–9.

(c) Because the statutory text and structure demonstrate that the discharge provision does not contain an intent requirement, the rule of lenity is not implicated in this case.

517 F. 3d 1224, affirmed.

ROBERTS, C. J., delivered the opinion of the Court, in which SCALIA, KENNEDY, SOUTER, THOMAS, GINSBURG, and ALITO, JJ., joined. STEVENS, J., and BREYER, J., filed dissenting opinions.