

Opinion of the Court

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SUPREME COURT OF THE UNITED STATES

Nos. 96-1654 AND 96-8837

FRANK J. MUSCARELLO, PETITIONER
96-1654 v.
UNITED STATES

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

DONALD E. CLEVELAND AND ENRIQUE GRAY-
SANTANA, PETITIONERS
96-8837 v.
UNITED STATES

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

[June 8, 1998]

JUSTICE BREYER delivered the opinion of the Court.

A provision in the firearms chapter of the federal criminal code imposes a 5-year mandatory prison term upon a person who “uses or carries a firearm” “during and in relation to” a “drug trafficking crime.” 18 U. S. C. §924(c)(1). The question before us is whether the phrase “carries a firearm” is limited to the carrying of firearms on the person. We hold that it is not so limited. Rather, it also applies to a person who knowingly possesses and conveys firearms in a vehicle, including in the locked glove compartment or trunk of a car, which the person accompanies.

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I

The question arises in two cases, which we have consolidated for argument. The defendant in the first case, Frank J. Muscarello, unlawfully sold marijuana, which he carried in his truck to the place of sale. Police officers found a handgun locked in the truck's glove compartment. During plea proceedings, Muscarello admitted that he had "carried" the gun "for protection in relation" to the drug offense, App. in No. 96-1654, p. 12, though he later claimed to the contrary, and added that, in any event, his "carr[ying]" of the gun in the glove compartment did not fall within the scope of the statutory word "carries." App. to Pet. for Cert. in No. 96-1654, p. 10a.

The defendants in the second case, Donald Cleveland and Enrique Gray-Santana, placed several guns in a bag, put the bag in the trunk of a car, and then traveled by car to a proposed drug-sale point, where they intended to steal drugs from the sellers. Federal agents at the scene stopped them, searched the cars, found the guns and drugs, and arrested them.

In both cases the Courts of Appeals found that the defendants had "carrie[d]" the guns during and in relation to a drug trafficking offense. 106 F. 3d 636, 639 (CA5 1997); 106 F. 3d 1056, 1068 (CA1 1997). We granted certiorari to determine whether the fact that the guns were found in the locked glove compartment, or the trunk, of a car, precludes application of §924(c)(1). We conclude that it does not.

II

A

We begin with the statute's language. The parties vigorously contest the ordinary English meaning of the phrase "carries a firearm." Because they essentially agree that Congress intended the phrase to convey its ordinary, and not some special legal, meaning, and because they

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argue the linguistic point at length, we too have looked into the matter in more than usual depth. Although the word “carry” has many different meanings, only two are relevant here. When one uses the word in the first, or primary, meaning, one can, as a matter of ordinary English, “carry firearms” in a wagon, car, truck, or other vehicle that one accompanies. When one uses the word in a different, rather special, way, to mean, for example, “bearing” or (in slang) “packing” (as in “packing a gun”), the matter is less clear. But, for reasons we shall set out below, we believe Congress intended to use the word in its primary sense and not in this latter, special way.

Consider first the word’s primary meaning. The *Oxford English Dictionary* gives as its *first* definition “convey, originally by cart or wagon, hence in any vehicle, by ship, on horseback, etc.” 2 *Oxford English Dictionary* 919 (2d ed. 1989); see also Webster’s Third New International Dictionary 343 (1986) (*first* definition: “move while supporting (*as in a vehicle* or in one’s hands or arms)”; The Random House Dictionary of the English Language Unabridged 319 (2d ed. 1987) (*first* definition: “to take or support from one place to another; convey; transport”).

The origin of the word “carries” explains why the first, or basic, meaning of the word “carry” includes conveyance in a vehicle. See The Barnhart Dictionary of Etymology 146 (1988) (tracing the word from Latin “carum,” which means “car” or “cart”); 2 *Oxford English Dictionary*, *supra*, at 919 (tracing the word from Old French “carier” and the late Latin “carricare,” which meant to “convey in a car”); The *Oxford Dictionary of English Etymology* 148 (C. Onions ed. 1966) (same); The Barnhart Dictionary of Etymology, *supra*, at 143 (explaining that the term “car” has been used to refer to the automobile since 1896).

The greatest of writers have used the word with this meaning. See, *e.g.*, the King James Bible, 2 Kings 9:28 (“[H]is servants carried him in a chariot to Jerusalem”);

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id., Isaiah 30:6 (“[T]hey will carry their riches upon the shoulders of young asses”). Robinson Crusoe says, “[w]ith my boat, I carry’d away every Thing.” D. Defoe, Robinson Crusoe 174 (J. Crowley ed. 1972). And the owners of Queequeg’s ship, Melville writes, “had lent him a [wheelbarrow], in which to carry his heavy chest to his boarding-house.” H. Melville, Moby Dick 43 (U. Chicago 1952). This Court, too, has spoken of the “carrying” of drugs in a car or in its “trunk.” *California v. Acevedo*, 500 U. S. 565, 572–573 (1991); *Florida v. Jimeno*, 500 U. S. 248, 249 (1991).

These examples do not speak directly about carrying guns. But there is nothing linguistically special about the fact that weapons, rather than drugs, are being carried. Robinson Crusoe might have carried a gun in his boat; Queequeg might have borrowed a wheelbarrow in which to carry, not a chest, but a harpoon. And, to make certain that there is no special ordinary English restriction (unmentioned in dictionaries) upon the use of “carry” in respect to guns, we have surveyed modern press usage, albeit crudely, by searching computerized newspaper databases—both the New York Times database in Lexis/Nexis, and the “US News” database in Westlaw. We looked for sentences in which the words “carry,” “vehicle,” and “weapon” (or variations thereof) all appear. We found thousands of such sentences, and random sampling suggests that many, perhaps more than one third, are sentences used to convey the meaning at issue here, *i.e.*, the carrying of guns in a car.

The New York Times, for example, writes about “an ex-con” who “arrives home driving a stolen car and carrying a load of handguns,” Mar. 21, 1992, section 1, p. 18, col. 1, and an “official peace officer who carries a shotgun in his boat,” June 19, 1988, section 12WC, p. 2, col. 1; cf. The New York Times Manual of Style and Usage, a Desk Book of Guidelines for Writers and Editors, forward (L. Jordan

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rev. ed. 1976) (restricting Times journalists and editors to the use of proper English). The Boston Globe refers to the arrest of a professional baseball player “for carrying a semiloaded automatic weapon in his car.” Dec. 10, 1994, p. 75, col. 5. The Colorado Springs Gazette Telegraph speaks of one “Russell” who “carries a gun hidden in his car.” May 2, 1993, p. B1, col. 2. The Arkansas Gazette refers to a “house” that was “searched” in an effort to find “items that could be carried in a car, such as . . . guns.” Mar. 10, 1991, p. A1, col. 2. The San Diego Union-Tribune asks, “What, do they carry guns aboard these boats now?” Feb. 18, 1992, p. D2, col. 5.

Now consider a different, somewhat special meaning of the word “carry”—a meaning upon which the linguistic arguments of petitioners and the dissent must rest. The Oxford English Dictionary’s *twenty-sixth* definition of “carry” is “bear, wear, hold up, or sustain, as one moves about; habitually to bear about with one.” 2 Oxford English Dictionary, *supra*, at 921. Webster’s defines “carry” as “to move while supporting,” not just in a vehicle, but also “in one’s hands or arms.” Webster’s Third New International Dictionary, *supra*, at 343. And Black’s Law Dictionary defines the entire phrase “carry arms or weapons” as

“To wear, bear or carry them upon the person or in the clothing or in a pocket, for the purpose of use, or for the purpose of being armed and ready for offensive or defensive action in case of a conflict with another person.” Black’s Law Dictionary 214 (6th ed. 1990).

These special definitions, however, do not purport to *limit* the “carrying of arms” to the circumstances they describe. No one doubts that one who bears arms on his person “carries a weapon.” But to say that is not to deny that one may *also* “carry a weapon” tied to the saddle of a horse or placed in a bag in a car.

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Nor is there any linguistic reason to think that Congress intended to limit the word “carries” in the statute to any of these special definitions. To the contrary, all these special definitions embody a form of an important, but secondary, meaning of “carry,” a meaning that suggests support rather than movement or transportation, as when, for example, a column “carries” the weight of an arch. 2 Oxford English Dictionary, *supra*, at 919, 921. In this sense a gangster might “carry” a gun (in colloquial language, he might “pack a gun”) even though he does not move from his chair. It is difficult to believe, however, that Congress intended to limit the statutory word to this definition—imposing special punishment upon the comatose gangster while ignoring drug lords who drive to a sale carrying an arsenal of weapons in their van.

We recognize, as the dissent emphasizes, that the word “carry” has other meanings as well. But those other meanings, (*e.g.*, “carry all he knew,” “carries no colours”), see *post*, at 6, are not relevant here. And the fact that speakers often do *not* add to the phrase “carry a gun” the words “in a car” is of no greater relevance here than the fact that millions of Americans did *not* see Muscarello carry a gun in his car. The relevant linguistic facts are that the word “carry” in its ordinary sense includes carrying in a car and that the word, used in its ordinary sense, keeps the same meaning whether one carries a gun, a suitcase, or a banana.

Given the ordinary meaning of the word “carry,” it is not surprising to find that the Federal Circuit Courts of Appeals have unanimously concluded that “carry” is not limited to the carrying of weapons directly on the person but can include their carriage in a car. *United States v. Toms*, 136 F. 3d 176, 181 (CA9 1998); *United States v. Foster*, 133 F. 3d 704, 708 (CA9 1998); *United States v. Eyer*, 113 F. 3d 470, 476 (CA3 1997); 106 F. 3d, at 1066 (case below); 106 F. 3d, at 639 (case below); *United States v. Mal-*

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cuit, 104 F. 3d 880, 885, rehearing en banc granted, 116 F. 3d 163 (CA6 1997), *United States v. Mitchell*, 104 F. 3d 649, 653–654 (CA4 1997); *United States v. Molina*, 102 F. 3d 928, 932 (CA7 1996); *United States v. Willis*, 89 F. 3d 1371, 1379 (CA8 1996); *United States v. Miller*, 84 F. 3d 1244, 1259–1260 (1996), overruled on other grounds, *United States v. Holland*, 116 F. 3d 1353 (CA10 1997); *United States v. Giraldo*, 80 F. 3d 667, 676–677 (CA2 1996); *United States v. Farris*, 77 F. 3d 391, 395–396 (CA11 1996).

B

We now explore more deeply the purely legal question of whether Congress intended to use the word “carry” in its ordinary sense, or whether it intended to limit the scope of the phrase to instances in which a gun is carried “on the person.” We conclude that neither the statute’s basic purpose nor its legislative history support circumscribing the scope of the word “carry” by applying an “on the person” limitation.

This Court has described the statute’s basic purpose broadly, as an effort to combat the “dangerous combination” of “drugs and guns.” *Smith v. United States*, 508 U. S. 223, 240 (1993). And the provision’s chief legislative sponsor has said that the provision seeks “to persuade the man who is tempted to commit a Federal felony to leave his gun at home.” 114 Cong. Rec. 22231 (1968) (Rep. Poff); see *Busic v. United States*, 446 U. S. 398, 405 (1980) (describing Poff’s comments as “crucial material” in interpreting the purpose of §924(c)); *Simpson v. United States*, 435 U. S. 6, 13–14 (1978) (concluding that Poff’s comments are “clearly probative” and “certainly entitled to weight”); see also 114 Cong. Rec. 22243–22244 (statutes would apply to “the man who goes out taking a gun to commit a crime”) (Rep. Hunt); *id.*, at 22244 (“Of course, what we are trying to do by these penalties is to persuade the criminal to leave his gun at home”) (Rep. Randall); *id.*, at 22236 (“We are concerned . . .

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with having the criminal leave his gun at home”) (Rep. Meskill).

From the perspective of any such purpose (persuading a criminal “to leave his gun at home”) what sense would it make for this statute to penalize one who walks with a gun in a bag to the site of a drug sale, but to ignore a similar individual who, like defendant Gray-Santana, travels to a similar site with a similar gun in a similar bag, but instead of walking, drives there with the gun in his car? How persuasive is a punishment that is without effect until a drug dealer who has brought his gun to a sale (indeed has it available for use) actually takes it from the trunk (or unlocks the glove compartment) of his car? It is difficult to say that, considered as a class, those who prepare, say, to sell drugs by placing guns in their cars are less dangerous, or less deserving of punishment, than those who carry handguns on their person.

We have found no significant indication elsewhere in the legislative history of any more narrowly focused relevant purpose. We have found an instance in which a legislator referred to the statute as applicable when an individual “has a firearm on his person,” *Ibid.* (Rep. Meskill); an instance in which a legislator speaks of “a criminal who takes a gun in his hand,” *id.*, at 22239 (Rep. Pucinski); and a reference in the Senate Report to a “gun carried in a pocket.” S. Rep. No. 98–225, p. 314, n. 10 (1983); see also 114 Cong. Rec. 21788, 21789 (1968) (references to gun “carrying” without more). But in these instances no one purports to define the scope of the term “carries”: and the examples of guns carried on the person are not used to illustrate the reach of the term “carries” but to illustrate, or to criticize, a different aspect of the statute.

Regardless, in other instances, legislators suggest that the word “carries” has a broader scope. One legislator indicates that the statute responds in part to the concerns of law enforcement personnel, who had urged that “carry-

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ing short firearms in motor vehicles be classified as carrying such weapons concealed.” *Id.*, at 22242 (Rep. May). Another criticizes a version of the proposed statute by suggesting it might apply to drunken driving, and gives as an example a drunken driver who has a “gun in his car.” *Id.*, at 21792 (Rep. Yates). Others describe the statute as criminalizing gun “possession”—a term that could stretch beyond both the “use” of a gun and the carrying of a gun on the person. See *id.*, at 21793 (Rep. Casey); *id.*, at 22236 (Rep. Meskill); *id.*, at 30584 (Rep. Collier); *id.*, at 30585 (Rep. Skubitz).

C

We are not convinced by petitioners’ remaining arguments to the contrary. First, they say that our definition of “carry” makes it the equivalent of “transport.” Yet, Congress elsewhere in related statutes used the word “transport” deliberately to signify a different, and broader, statutory coverage. The immediately preceding statutory subsection, for example, imposes a different set of penalties on one who, with an intent to commit a crime, “ships, transports, or receives a firearm” in interstate commerce. 18 U. S. C. §924(b). Moreover, §926A specifically “entitle[s]” a person “not otherwise prohibited . . . from transporting, shipping, or receiving a firearm” to “transport a firearm . . . from any place where he may lawfully possess and carry” it to “any other place” where he may do so. Why, petitioners ask, would Congress have used the word “transport,” or used both “carry” and “transport” in the same provision, if it had intended to obliterate the distinction between the two?

The short answer is that our definition does not equate “carry” and “transport.” “Carry” implies personal agency and some degree of possession, whereas “transport” does not have such a limited connotation and, in addition, implies the movement of goods in bulk over great distances.

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See Webster's Third New International Dictionary 343 (noting that "carry" means "moving to a location some distance away while supporting or maintaining off the ground" and "is a natural word to use in ref. to cargoes and loads on trucks, wagons, planes, ships, or even beasts of burden," while "transport refers to carriage in bulk or number over an appreciable distance and, typically, by a customary or usual carrier agency"); see also Webster's Dictionary of Synonyms 141 (1942). If Smith, for example, calls a parcel delivery service, which sends a truck to Smith's house to pick up Smith's package and take it to Los Angeles, one might say that Smith has shipped the package and the parcel delivery service has transported the package. But only the truck driver has "carried" the package in the sense of "carry" that we believe Congress intended. Therefore, "transport" is a broader category that includes "carry" but also encompasses other activity.

The dissent refers to §926A and to another statute where Congress used the word "transport" rather than "carry" to describe the movement of firearms. 18 U. S. C. §§925(a)(2)(B); *post*, at 8–9. According to the dissent, had Congress intended "carry" to have the meaning we give it, Congress would not have needed to use a different word in these provisions. But as we have discussed above, we believe the word "transport" is broader than the word "carry."

And, if Congress intended "carry" to have the limited definition the dissent contends, it would have been quite unnecessary to add the proviso in §926A requiring a person, to be exempt from penalties, to store her firearm in a locked container not immediately accessible. See §926A (quoted in full at *post*, 8–9) (exempting from criminal penalties one who transports a firearm from a place where "he may lawfully possess and carry such firearm" but not exempting the "transportation" of a firearm if it is "readily accessible or is directly accessible from the passenger

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compartment of transporting vehicle”). The statute simply could have said that such a person may not “carry” a firearm. But, of course, Congress did not say this because that is not what “carry” means.

As we interpret the statutory scheme, it makes sense. Congress has imposed a variable penalty with no mandatory minimum sentence upon a person who “transports” (or “ships” or “receives”) a firearm knowing it will be used to commit any “offense punishable by imprisonment for [more than] . . . one year,” §924(b), and it has imposed a 5-year mandatory minimum sentence upon one who “carries” a firearm “during and in relation to” a “drug trafficking crime,” §924(c). The first subsection imposes a less strict sentencing regime upon one who, say, ships firearms by mail for use in a crime elsewhere; the latter subsection imposes a mandatory sentence upon one who, say, brings a weapon with him (on his person or in his car) to the site of a drug sale.

Second, petitioners point out that, in *Bailey v. United States*, 516 U. S. 137 (1995), we considered the related phrase “uses . . . a firearm” found in the same statutory provision now before us. See 18 U. S. C. §924(c)(1) (“uses or carries a firearm”). We construed the term “use” narrowly, limiting its application to the “active employment” of a firearm. *Bailey*, 516 U. S., at 144. Petitioners argue that it would be anomalous to construe broadly the word “carries,” its statutory next-door neighbor.

In *Bailey*, however, we limited “use” of a firearm to “active employment” in part because we assumed “that Congress . . . intended each term to have a particular, non-superfluous meaning.” *Id.*, at 146. A broader interpretation of “use,” we said, would have swallowed up the term “carry.” *Ibid.* But “carry” as we interpret that word does not swallow up the term “use.” “Use” retains the same independent meaning we found for it in *Bailey*, where we provided examples involving the displaying or the barter-

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ing of a gun. *Ibid.* “Carry” also retains an independent meaning, for, under *Bailey*, carrying a gun in a car does not necessarily involve the gun’s “active employment.” More importantly, having construed “use” narrowly in *Bailey*, we cannot also construe “carry” narrowly without undercutting the statute’s basic objective. For the narrow interpretation would remove the act of carrying a gun in a car entirely from the statute’s reach, leaving a gap in coverage that we do not believe Congress intended.

Third, petitioners say that our reading of the statute would extend its coverage to passengers on buses, trains, or ships, who have placed a firearm, say, in checked luggage. To extend this statute so far, they argue, is unfair, going well beyond what Congress likely would have thought possible. They add that some lower courts, thinking approximately the same, have limited the scope of “carries” to instances where a gun in a car is immediately accessible, thereby most likely excluding from coverage a gun carried in a car’s trunk or locked glove compartment. See, e.g., *Foster*, 133 F. 3d, at 708 (concluding that person “carries” a firearm in a car only if the firearm is immediately accessible); *Giraldo*, 80 F. 3d, at 676 (same).

In our view, this argument does not take adequate account of other limiting words in the statute— words that make the statute applicable only where a defendant “carries” a gun *both* “during *and* in relation to” a drug crime. §924(c)(1) (emphasis added). Congress added these words in part to prevent prosecution where guns “played” no part in the crime. See S. Rep. No. 98–225, at 314, n. 10; cf. *United States v. Stewart*, 779 F. 2d 538, 539 (CA9 1985) (Kennedy, J.) (observing that “in relation to” was “added to allay explicitly the concern that a person could be prosecuted . . . for committing an entirely unrelated crime while in possession of a firearm”), overruled in part on other grounds, *United States v. Hernandez*, 80 F. 3d 1253,

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1257 (CA9 1996).

Once one takes account of the words “during” and “in relation to,” it no longer seems beyond Congress’ likely intent, or otherwise unfair, to interpret the statute as we have done. If one carries a gun in a car “during” and “in relation to” a drug sale, for example, the fact that the gun is carried in the car’s trunk or locked glove compartment seems not only logically difficult to distinguish from the immediately accessible gun, but also beside the point.

At the same time, the narrow interpretation creates its own anomalies. The statute, for example, defines “firearm” to include a “bomb,” “grenade,” “rocket having a propellant charge of more than four ounces,” or “missile having an explosive or incendiary charge of more than one-quarter ounce,” where such device is “explosive,” “incendiary,” or delivers “poison gas.” 18 U. S. C. §921(a)(4)(A). On petitioners’ reading, the “carry” provision would not apply to instances where drug lords, engaged in a major transaction, took with them “firearms” such as these, which most likely could not be carried on the person.

Fourth, petitioners argue that we should construe the word “carry” to mean “immediately accessible.” And, as we have said, they point out that several Circuit Courts of Appeals have limited the statute’s scope in this way. See, e.g., *Foster, supra*, at 708; *Giraldo, supra*, at 676. That interpretation, however, is difficult to square with the statute’s language, for one “carries” a gun in the glove compartment whether or not that glove compartment is locked. Nothing in the statute’s history suggests that Congress intended that limitation. And, for reasons pointed out above, see *supra*, at 11, we believe that the words “during” and “in relation to” will limit the statute’s application to the harms that Congress foresaw.

Finally, petitioners and the dissent invoke the “rule of lenity.” The simple existence of some statutory ambiguity, however, is not sufficient to warrant application of that

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rule, for most statutes are ambiguous to some degree. Cf. *Smith*, 508 U. S., at 239 (“The mere possibility of articulating a narrower construction . . . does not by itself make the rule of lenity applicable”). “The rule of lenity applies only if, “after seizing everything from which aid can be derived,” . . . we can make “no more than a guess as to what Congress intended.”” *United States v. Wells*, 519 U. S. 482, 499 (1997) (quoting *Reno v. Koray*, 515 U. S. 50, 64 (1995), *Smith*, *supra*, at 239, and *Ladner v. United States*, 358 U. S. 169, 178 (1958)). To invoke the rule, we must conclude that there is a “grievous ambiguity or uncertainty” in the statute.” *Staples v. United States*, 511 U. S. 600, 619, n. 17 (1994) (quoting *Chapman v. United States*, 500 U. S. 453, 463 (1991)). Certainly, our decision today is based on much more than a “guess as to what Congress intended,” and there is no “grievous ambiguity” here. The problem of statutory interpretation in this case is indeed no different from that in many of the criminal cases that confront us. Yet, this Court has never held that the rule of lenity automatically permits a defendant to win.

In sum, the “generally accepted contemporary meaning” of the word “carry” includes the carrying of a firearm in a vehicle. The purpose of this statute warrants its application in such circumstances. The limiting phrase “during and in relation to” should prevent misuse of the statute to penalize those whose conduct does not create the risks of harm at which the statute aims.

For these reasons, we conclude that the petitioners’ conduct falls within the scope of the phrase “carries a firearm.” The decisions of the Courts of Appeals are affirmed.

It is so ordered.