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Thompson v. United States: A Reminder That Statutory Language is Critical in Criminal Cases

Authors: Thomas H. Barnard, Annie M. Kenville

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On March 21, 2025, a unanimous Supreme Court overturned a false statement conviction under 18 U.S.C. § 1014 holding that the statute requires false, and not merely misleading, statements to certain federal agencies including lenders and financial institutions. *Thompson v. United States*, 604 U.S. ___, 145 S. Ct. 821 (2025). This is the Court's latest reminder that due process principles require a narrow interpretation of statutorily prohibited conduct.¹ Accordingly, where a statute only criminalizes "false" statements, the government cannot rely on statements that are misleading, but true.

18 U.S.C. § 1014 prohibits "knowingly mak[ing] any false statement or report" to influence several federal agencies, including the Federal Deposit Insurance Corporation (FDIC). In 2018, Thompson made statements to the FDIC relating to three loans he took out from the Washington Federal Bank for Savings: \$110,000 in 2011 for an equity contribution to a law firm; \$20,000 in 2013; and \$89,000 in 2014. After receiving an invoice for a balance due of \$269,120.58, the principal amount of the loans plus interest, Thompson told two FDIC contractors that he borrowed \$110,000 for home improvement.

Thompson was convicted of two counts of violating 18 U.S.C. § 1014 for (i) on one call, "falsely stat[ing] he only owed ... \$110,000 to [the Bank] and that any higher amount was incorrect, when [he] then knew he had received \$219,000," and (ii) on a second call, "falsely stat[ing] that he only owed \$110,000 to [the Bank], that any higher amount was incorrect, and that these funds were for home improvement, when [he] then knew he had received \$219,000 from [the Bank] and the \$110,000 was paid to a law firm as [his] capital contribution."

Thompson's defense, and argument in his motion for acquittal, was that his statement was technically true, and that, at most, his omission of the other loans was misleading, but did not render his statement "false." Counsel argued that 18 U.S.C. § 1014 was limited to criminalizing "false" and not "misleading" statements. The district court denied Thompson's motion for acquittal or a new trial, which the Seventh Circuit affirmed.

The Supreme Court reversed, holding that § 1014 only criminalizes false—and not misleading—statements, and there had been no determination by the lower courts that the statements were false.

In discussing the various arguments by the parties, the Court noted several key points. First, a statement can be both false and misleading, but can also be true and misleading. The parties, including the government, pointed to several examples to mutually agree on this point. Second, the critical question is in the language of the statute. The parties debated whether a statute must specifically include "misleading" as a part of the statute to outlaw both false and misleading statements. The Court fairly conclusively decided it must. In reaching this conclusion, the Court noted numerous examples of statutes that criminalize only false, and not misleading, statements, demonstrating through case law that both the legislature and the courts have historically not considered these terms as identical.

Given the posture of the case, the Court did not have to reach the question of whether Thompson's statements were in fact also "false." Rather, the case was remanded to the Seventh Circuit for further proceedings.

In a concurring opinion, Justice Jackson noted that the jury instruction did not include the word "misleading," so the Jury had already convicted Mr. Thompson under the correct falsity standard. Writing separately, Justice Alito's concurrence suggested that the Seventh Circuit needed to reevaluate whether the evidence was sufficient for a jury to support a conviction under the correct standard. Justice Alito also further elaborated on the majority's opinion and discussed the importance of context in deciding whether a statement is actually false or merely misleading.

Thompson's Impact

This case is unlikely to be hugely impactful on false statement practice. First, as noted by Justice Jackson, the jury instruction here did use the correct standard. Second, this went up on appeal because of the current state of the law in the Seventh Circuit, not a broad confusion about the meanings of "false" and "misleading." Third, "false by omission" is a well-understood concept supported by a significant amount of case law. Fourth, most statutes are fairly clear about what will be considered "false" under the statute.

Lastly, the most commonly used government tool for false statements, the False Claims Act (FCA), is a civil, not criminal, statute. Accordingly, this defense is not available under a reverse FCA theory alleging unlawful retention of an overpayment, where all the government must prove is that the defendant "knowingly conceal[ed] or knowingly and improperly avoid[ed] or decrease[d] an obligation to pay or transmit money or property to the Government." 31 U.S.C.A. § 3729(a)(1)(G). Nonetheless, the opinion emphasizes the importance of carefully analyzing statutory language, especially in a criminal case.

As the law and corresponding DOJ guidance continue to evolve in the area of criminal and civil fraud, please reach out to [Thomas Barnard](#), [Annie Kenville](#), or any member of Baker Donelson's [Government Enforcement and Investigations Group](#) if you have questions.

¹ This is the latest step in its current streak of limiting the powers of the Department of Justice to prosecute criminal matters based on narrow readings of criminal statutes. This includes most notably in public corruption cases. See "Timing is Everything: The Court's Latest Gift to Defendants in Bribery Prosecutions (*Snyder v. United States*)" (July 3, 2024), available [here](#); "Reining it in: Supreme Court Again Restricts Honest-Services Fraud," (May 16, 2023) available [here](#); "Supreme Court Overturns 'Bridgegate' Convictions in Unanimous Decision," (May 11, 2020) available [here](#).