

I. INTRODUCTION

Section 1014 of Title 18 of the United States Code prohibits “knowingly mak[ing] any false statement or report ... for the purpose of influencing in any way the action of ... the Federal Deposit Insurance Corporation ... upon any ... loan.”¹ This statute clearly covers “any false statement,” but it does not explicitly cover misleading statements.²

The purpose of this Note is to evaluate *Thompson v. United States*, in which the Supreme Court determined that Section 1014 does not criminalize statements that are misleading but not false.³ This Note will discuss precedent relevant to the *Thompson* decision, the majority’s reasoning, and the potential unintended consequences resulting from the Court’s judgment.

II. LEGAL BACKGROUND

In 2013, the Sixth Circuit Court of Appeals held that jury instructions that broadly defined “false statements” to include misleading statements and half-truths went beyond the statutory authority of Section 1014.⁴ Instead, in *United States v. Kurlemann*, the Sixth Circuit held that a conviction under Section 1014 could only be obtained if the defendant made a statement that is proven to be literally false.⁵ With this decision, the Sixth Circuit distinguished literal false statements, which are explicitly prohibited under Section 1014, from “half-truths” and true

¹ 18 U.S.C. § 1014

² *Id.*

³ *Thompson v. United States*, No. 23-1095 (U.S. Mar. 21, 2025).

⁴ *United States v. Kurlemann*, 736 F.3d 439, 445 (6th Cir. 2013).

⁵ *Id.*

statements that conceal a material fact, which the Sixth Circuit found are likely not prohibited under Section 1014.⁶

Additionally, with the *Kurlemann* decision, the Sixth Circuit reaffirmed the Supreme Court's requirement for a conviction under Section 1014, outlined in *Williams v. United States*, requiring that (1) the defendant must make a statement that can be proven either true or false and (2) the statement itself is shown to be literally false.⁷ Building on the *Williams* decision, the Sixth Circuit expressed that its decision in *Kurlemann* was rooted in the literal meaning of the statute in order to narrowly define "false statement" and preserve the rule of lenity.⁸

However, in 2019, the Seventh Circuit Court of Appeals diverged from the Sixth Circuit's decision. With *United States v. Freed*, the Seventh Circuit affirmed a conviction under Section 1014 based on statements that were technically true but implied a falsehood.⁹ Rather than the Sixth Circuit's narrow definition of "false statements," the Seventh Circuit took a much broader view in defining a false statement, allowing the jury to evaluate the truth or falsity of the defendant's statement without requiring a literal falsehood.¹⁰

In 2024, the Seventh Circuit again held that a misleading statement, even if not literally false, could be criminalized under Section 1014 with its judgment in *Thompson*.¹¹ While *Thompson* noted the Sixth Circuit's narrow definition of a false statement, the Seventh Circuit reaffirmed its

⁶ *Id.*

⁷ *Id.* at 447 (citing *Williams v. United States*, 458 U.S. 279, 284 (1982)).

⁸ *Id.* at 448.

⁹ *United States v. Freed*, 921 F.3d 716, 723 (7th Cir. 2019).

¹⁰ Compare *id.* with *Kurlemann*, 736 F.3d at 445.

¹¹ *Thompson*, slip op. at 4.

broad definition of a false statement under Section 1014, claiming that it had already addressed the definition of a false statement in Section 1014 in *Freed*.¹² Thus, the Seventh Circuit continued to criminalize misleading statements under Section 1014, even if the statement was not literally false.¹³

With *Thompson* further entrenching the contradictory interpretations of Section 1014 by the Sixth and Seventh Circuits, the Supreme Court granted certiorari in 2024 to determine if Section 1014 criminalizes statements that are misleading but not literally false.¹⁴

III. THE *THOMPSON V. UNITED STATES* DECISION

A. Facts

From 2011 to 2014, Patrick Thompson took out three loans totaling \$219,000 from the Washington Federal Bank for Savings.¹⁵ First, Thompson borrowed \$110,000 for an equity contribution to a law firm; then, on separate occasions, borrowed an additional \$20,000 and \$89,000 from the Bank.¹⁶ After the Bank failed in 2017, Thompson received an invoice in February 2018 from Planet Home Lending, the loan servicer on behalf of the Federal Deposit Insurance Corporation (FDIC), indicating that Thompson had a balance due of \$269,120.58, based on the loans and interest from the Bank.¹⁷

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 2.

¹⁶ *Id.*

¹⁷ *Id.*

On February 23, 2018, Thompson called the customer service line of Planet Home Lending.¹⁸ Thompson disputed the invoice he had received, questioning “where the 269 number came from,” and stating that he had borrowed \$110,000 from the Bank.¹⁹ The customer service agent agreed to do additional research on the “discrepancy” in Thompson’s balance due.²⁰ On March 1, 2018, two FDIC contractors called Thompson. While the call was not recorded, based on the FDIC contractors’ notes, Thompson again mentioned borrowing \$110,000 from the Bank.²¹

Thompson ultimately settled his debt with the FDIC for \$219,000, the amount of his three separate loans without interest.²²

B. Procedural History

Thompson was charged under Section 1014 for two counts for knowingly making a false statement to the FDIC.²³ The first count alleged Thompson gave a false statement in the February 23 phone call by claiming he owed \$110,000 when he knew he borrowed a total of \$219,000 from the Bank. The second count alleged that Thompson made a similar false statement about owing \$110,000 in the March 1 phone call to the FDIC agents.²⁴

At trial, the jury found Thompson guilty on both counts.²⁵ Thompson moved for acquittal or for a new trial, arguing that his conviction for making false statements could not be sustained

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.* at 3.

²⁴ *Id.*

²⁵ *Id.*

because his statements were true.²⁶ The district court denied Thompson’s motion, citing Seventh Circuit precedent that did not require “literal falsity” in a conviction under Section 1014.²⁷ Using the same reasoning as the district court, the Seventh Circuit Court of Appeals affirmed the district court’s ruling, upholding Thompson’s conviction.²⁸

C. The Supreme Court’s Decision

In a unanimous decision, the Supreme Court vacated and remanded the Seventh Circuit’s judgment. Chief Justice Roberts delivered the opinion for the unanimous court, while Justice Alito and Justice Jackson both filed separate concurring opinions.

i. Majority Opinion

The Court held that a misleading statement is not a “false statement” under Section 1014, and thus is not criminalized under the statute, citing the plain meaning of the statutory text, the broader statutory context of Section 1014, and earlier precedent as justifications for the decision.²⁹

The Court first discussed the plain meaning of the text in Section 1014, which criminalizes “knowingly mak[ing] any false statement or report,” but does not use the word “misleading.”³⁰ The Court emphasized that a misleading statement can be true, distinguishing it from a false statement.³¹ By definition, the Court reasoned, a false statement is “not true.”³² Thus, the Court rejected the government’s argument that false and misleading have “substantial overlap” and

²⁶ *Id.*

²⁷ *Id.* at 4.

²⁸ *Id.*

²⁹ *Id.* at 4-7.

³⁰ *Id.* at 4.

³¹ *Id.* at 4-5.

³² *Id.* at 5.

should be considered synonyms, instead adopting the view that, because a misleading statement can be true, a misleading statement is not the exact same as a false statement.³³ Additionally, while the Court recognized the word “any” can be expansive, it disagreed with the argument that “any false statement[s]” would include misleading statements.³⁴

The Court also cited related statutory language in determining that Section 1014 does not criminalize either misleading or true statements.³⁵ It found multiple provisions in Title 18 that specifically prohibit making “a false or misleading statement,” compared to Section 1014, which only prohibits “a false statement.”³⁶ The Court noted that if it equated the meaning of false and misleading, it would make the inclusion of “misleading” in other Title 18 statutes superfluous.³⁷

Additionally, the Court asserted that when Congress originally enacted Section 1014 in 1948, it deliberately chose to leave out the word “misleading,” as it had included the phrase “false or misleading” in multiple statutes enacted during the same period.³⁸ Because Congress “knew how to” include “misleading” in the statute but intentionally left the term out, the Court reasoned Section 1014 did not criminalize a misleading statement that is not false.³⁹

Finally, the Court also relied on precedent in supporting its judgment. The government argued Section 1014’s predecessor statute prohibited “false *and* misleading” statements, citing *Kay v. United States*, but the Court rejected this argument on the basis that the word “and” did not

³³ *Id.* at 6.

³⁴ *Id.* at 5; *see also* *Brogan v. United States*, 522 U.S. 398, 400 (1998).

³⁵ *Thompson*, slip op. at 6.

³⁶ *Id.*

³⁷ *Id.* at 7.

³⁸ *Id.*

³⁹ *Id.*

prohibit misleading statements that were true.⁴⁰ Instead, the Court cited to *Williams v. United States*, which held Section 1014 required (1) that the defendant make a statement that can be true or false, and (2) that the statement can be determined to be literally false.⁴¹ The Court also cited to *United States v. Wells*, where it held Section 1014 did not require materiality as an element because materiality was not in the statutory language.⁴² Using reasoning similar to the *Wells* decision, the Court found that because misleading was not included in the statutory language of Section 1014, the statute does not cover all misleading statements, but only those that are false.⁴³

The Court vacated and remanded the judgment.⁴⁴

ii. Justice Alito's Concurrence

Justice Alito wrote separately to express his thoughts on the decision, largely echoing the majority's reasoning in following the plain meaning of the text, agreeing that the Court had correctly determined a difference between false and misleading statements.⁴⁵ However, Justice Alito did draw attention to the real-world, contextual evaluation of a statement's falsity.⁴⁶ He specifically noted that in ordinary, everyday speech, a statement is not determined to be false in

⁴⁰ *Id.* at 8; *see also* *Kay v. United States*, 303 U.S. 1 (1938).

⁴¹ *Thompson*, slip op. at 8; *see also* *Williams v. United States*, 458 U.S. 279 (1982).

⁴² *Thompson*, slip op. at 7; *see also* *United States v. Wells*, 519 U.S. 482 (1997).

⁴³ *Thompson*, slip op. at 7.

⁴⁴ *Id.* at 10.

⁴⁵ *Id.* at 1 (Alito, J., concurring).

⁴⁶ *Id.* at 1-2.

isolation but is evaluated based on context.⁴⁷ In this concurrence, Justice Alito importantly placed greater emphasis on evaluating the falsity of a statement in the context in which it is used.⁴⁸

iii. Justice Jackson's Concurrence

Justice Jackson wrote a brief concurring opinion. While agreeing with the Court's conclusion that Section 1014 only criminalizes literal false statements, Justice Jackson wrote her concurrence to express her view that it was seemingly unnecessary to remand the case to the Seventh Circuit for further consideration because the jury had already answered whether Thompson's statements were false and not just misleading.⁴⁹ Justice Jackson asserted that, at most, the Seventh Circuit could assess whether any reasonable jury could have come to this conclusion on remand.⁵⁰

IV. ANALYSIS OF THE *THOMPSON* DECISION

The majority's decision to employ the literal meaning of the statute in order to narrowly interpret the meaning of "false statements" is based on sound reasoning and ultimately reaches the correct outcome, but the decision does risk overemphasizing the literal and technical falsity of a statement over the context in which the statement was made.

Importantly, the Court preserved the rule of lenity by narrowly interpreting Section 1014.⁵¹ While the government's argument equating misleading statements likely aims to protect financial institutions from bad actors, if the Court adopted the government's expansive definition of a false

⁴⁷ *Id.* at 2.

⁴⁸ *Id.*

⁴⁹ *Id.* at 1 (Jackson, J., concurring).

⁵⁰ *Id.*

⁵¹ *Id.*

statement, the scope of criminal conduct under Section 1014 would drastically expand. Instead of criminalizing literal false statements, as the Court affirms in *Thompson*, if the Court adopted the government's broad interpretation of false statements, a singular omission of information or accidental misrepresentation in a statement to an FDIC agent or other financial institution would likely be criminalized.⁵²

However, the Court's reasoning in *Thompson* could lead to the discounting of the context in which a statement is said when evaluating its falsity. While not the Court's intention, its repeated emphasis on requiring a false statement to be *literally* false could lead lower courts to isolate a statement from a reasonable context. Rather than balancing the context of the statement against its literal falsity, the Court may unintentionally encourage courts to overprioritize the literal falsity of a statement. This overemphasis on literal falsity could make convictions under Section 1014 extremely difficult, go beyond the protections intended by the rule of lenity, and instead allow defendants to avoid prosecution under Section 1014.

To address this unintended consequence, Justice Alito's assertion that evaluating the falsity of a statement within the context of which the statement is made should be heeded by the Court. Justice Alito specifically emphasizes the importance of using conversational context to assess whether a statement is false, acknowledging the risk that future courts may overemphasize the literal and semantic meaning of a word or sentence viewed in isolation to evaluate a statement's falsity.⁵³ In emphasizing the context in which a statement is made, Justice Alito's concurrence attempts to balance the overly literal approach of the Court without disturbing the Court's narrow reading of Section 1014, which is largely correct. Thus, Justice Alito's opinion would allow for a

⁵² *Id.*; see also Brief for Petitioner at 33, *Thompson v. United States*, (No. 23-1095).

⁵³ *Thompson*, slip op. at 2 (Alito, J., concurring).

reasonable, contextual evaluation of the falsity of a statement and likely avoid the unintentional consequences of the majority's approach.

V. CONCLUSION

The Court's reasoning in *Thompson* yields the right result, as it narrowly construes the statute and preserves the rule of lenity. However, the Court overlooked the risk of overemphasizing the literal falsity over the contextual falsity of a statement in future cases and should have adopted a more balanced approach like the approach outlined in Justice Alito's concurrence. PLEDGE.