SUPREME COURT OF THE UNITED STATES

No. 06–1005

UNITED STATES, PETITIONER *v.* EFRAIN SANTOS AND BENEDICTO DIAZ

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

[June 2, 2008]

JUSTICE SCALIA announced the judgment of the Court and delivered an opinion, in which JUSTICE SOUTER and JUSTICE GINSBURG join, and in which JUSTICE THOMAS joins as to all but Part IV.

We consider whether the term "proceeds" in the federal money-laundering statute, 18 U. S. C. §1956(a)(1), means "receipts" or "profits."

I

From the 1970's until 1994, respondent Santos operated a lottery in Indiana that was illegal under state law. See Ind. Code §35–45–5–3 (West 2004). Santos employed a number of helpers to run the lottery. At bars and restaurants, Santos's runners gathered bets from gamblers, kept a portion of the bets (between 15% and 25%) as their commissions, and delivered the rest to Santos's collectors. Collectors, one of whom was respondent Diaz, then delivered the money to Santos, who used some of it to pay the salaries of collectors (including Diaz) and to pay the winners.

These payments to runners, collectors, and winners formed the basis of a 10-count indictment filed in the United States District Court for the Northern District of

Indiana, naming Santos, Diaz, and 11 others. A jury found Santos guilty of one count of conspiracy to run an illegal gambling business (§371), one count of running an illegal gambling business (§1955), one count of conspiracy to launder money (§1956(a)(1)(A)(i) and §1956(h)), and two counts of money laundering (§1956(a)(1)(A)(i)). The court sentenced Santos to 60 months of imprisonment on the two gambling counts and to 210 months of imprisonment on the three money-laundering counts. Diaz pleaded guilty to conspiracy to launder money, and the District Court sentenced him to 108 months of imprisonment. The Court of Appeals affirmed the convictions and sentences. *United States* v. *Febus*, 218 F. 3d 784 (CA7 2000). We declined to review the case. 531 U. S. 1021 (2000).

Thereafter, respondents filed motions under 28 U. S. C. §2255, collaterally attacking their convictions and sentences. The District Court rejected all of their claims but one, a challenge to their money-laundering convictions based on the Seventh Circuit's subsequent decision in *United States* v. *Scialabba*, 282 F. 3d 475 (2002), which held that the federal money-laundering statute's prohibition of transactions involving criminal "proceeds" applies only to transactions involving criminal profits, not criminal receipts. *Id.,* at 478. Applying that holding to respondents' cases, the District Court found no evidence that the transactions on which the money-laundering convictions were based (Santos's payments to runners, winners, and collectors and Diaz's receipt of payment for his collection services) involved profits, as opposed to receipts, of the illegal lottery, and accordingly vacated the money-laundering convictions. The Court of Appeals affirmed, rejecting the Government's contention that *Scialabba* was wrong and should be overruled. 461 F. 3d 886 (CA7 2006). We granted certiorari. 550 U. S. ___ (2007).

II

The federal money-laundering statute prohibits a number of activities involving criminal "proceeds." Most relevant to this case is 18 U. S. C. §1956(a)(1)(A)(i), which criminalizes transactions to promote criminal activity.[1] This provision uses the term "proceeds" in describing two elements of the offense: the Government must prove that a charged transaction "in fact involve[d] the proceeds of specified unlawful activity" (the proceeds element), and it also must prove that a defendant knew "that the property involved in" the charged transaction "represent[ed] the proceeds of some form of unlawful activity" (the knowledge element). §1956(a)(1).

The federal money-laundering statute does not define "proceeds." When a term is undefined, we give it its ordinary meaning. *Asgrow Seed Co.* v. *Winterboer*, 513 U. S. 179, 187 (1995). "Proceeds" can mean either "receipts" or "profits." Both meanings are accepted, and have long been accepted, in ordinary usage. See, *e.g.,* 12 Oxford English Dictionary 544 (2d ed. 1989); Random House Dictionary of the English Language 1542 (2d ed. 1987); Webster's New International Dictionary 1972 (2d ed. 1957) (hereinafter Webster's 2d). The Government contends that dictionaries generally prefer the "receipts" definition over the "profits"

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[1] Section 1956(a)(1) reads as follows: "Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity . . . (A)(i) with the intent to promote the carrying on of specified unlawful activity . . . shall be sentenced to a fine of not more than $500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both."

Respondents were also convicted of conspiring to launder money under §1956(h). Because the Government has not argued that respondents' conspiracy convictions could stand if "proceeds" meant "profits," see 461 F. 3d 866, 889 (CA7 2006), we do not address that possibility.

definition, but any preference is too slight for us to conclude that "receipts" is the *primary* meaning of "proceeds."

"Proceeds," moreover, has not acquired a common meaning in the provisions of the Federal Criminal Code. Most leave the term undefined. See, *e.g.,* 18 U. S. C. §1963; 21 U. S. C. §853. Recognizing the word's inherent ambiguity, Congress has defined "proceeds" in various criminal provisions, but sometimes has defined it to mean "receipts" and sometimes "profits." Compare 18 U. S. C. §2339C(e)(3) (2000 ed., Supp. V) (receipts), §981(a)(2)(A) (2000 ed.) (same), with §981(a)(2)(B) (profits).

Since context gives meaning, we cannot say the money-laundering statute is truly ambiguous until we consider "proceeds" not in isolation but as it is used in the federal money-laundering statute. See *United Sav. Assn. of Tex.* v. *Timbers of Inwood Forest Associates, Ltd.*, 484 U. S. 365, 371 (1988). The word appears repeatedly throughout the statute, but all of those appearances leave the ambiguity intact. Section 1956(a)(1) itself, for instance, makes sense under either definition: one can engage in a financial transaction with either receipts or profits of a crime; one can intend to promote the carrying on of a crime with either its receipts or its profits; and one can try to conceal the nature, location, etc., of either receipts or profits. The same is true of all the other provisions of this legislation in which the term "proceeds" is used. They make sense under either definition. See, for example, §1956(a)(2)(B), which speaks of "proceeds" represented by a "monetary instrument or funds."

JUSTICE ALITO's dissent (the principal dissent) makes much of the fact that 14 States that use *and define* the word "proceeds" in their money-laundering statutes,[2] the

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[2] The majority of States with money-laundering laws, in fact, use "proceeds" *without defining it*. See Colo. Rev. Stat. Ann. §18–18–408 (2007); Fla. Stat. §896.101 (2006); Ga. Code Ann. §§7–1–911, 7–1–915 (2004);

Model Money Laundering Act, and an international treaty on the subject, all define the term to include gross receipts. See *post*, at 3–5. We do not think this evidence shows that the drafters of the federal money-laundering statute used "proceeds" as a term of art for "receipts." Most of the state laws cited by the dissent, the Model Act, and the treaty postdate the 1986 federal money-laundering statute by several years, so Congress was not acting against the backdrop of those definitions when it enacted the federal statute. If anything, they show that "proceeds" is ambiguous and that others who believed that money-laundering statutes ought to include gross receipts sought to clarify the ambiguity that Congress created when it left the term undefined.[3]

Idaho Code §18–8201 (Lexis 2004); Ill. Comp. Stat., ch. 720, §29B–1 (West 2003); Kan. Stat. Ann. §65–4142 (2002); Minn. Stat. §§609.496 to 609.497 (2006); Miss. Code Ann. §97–23–101 (2006); Mo. Rev. Stat. §574.105 (2000); Mont. Code Ann. §45–6–341 (2007); Nev. Rev. Stat. §207.195 (2007); N. Y. Penal Law Ann. §§470.00 to 470.25 (West Supp. 2008); Okla. Stat., Tit. 63, §2–503.1 (2004); Ore. Rev. Stat. §164.170 (2007); 18 Pa. Cons. Stat. §5111 (Supp. 2008); R. I. Gen. Laws §11–9.1–15 (2002); S. C. Code Ann. §44–53–475 (2002); Tenn. Code Ann. §§39–14–901 to 39–14–909 (2006). Courts in these States have not construed the term one way or the other. But cf. *State* v. *Jackson*, 124 S. W. 3d 139, 143 (Tenn. Crim. App. 2003) (linking "proceeds" with the defined term "property"). California might belong in this list, for it has a money-laundering provision in its Penal Code, in which it uses the term "proceeds" but does not define it. See Cal. Penal Code Ann. §186.10 (West 1999). But California also has a more limited money-laundering statute that uses and defines "proceeds." See Cal. Health & Safety Code Ann. §11370.9(h)(1) (West 2007). Maryland might belong on the list as well: Its general money-laundering statute defines "proceeds" simply to set a minimum value on the proceeds laundered, Md. Crim. Law Code Ann. §5–623(a)(5) (Lexis 2002) ("money or any other property with a value exceeding $10,000"), and its more limited money-laundering statute does not define the term, see §11–304.

[3] The principal dissent also suggests that Congress thought "proceeds" meant "receipts" because the House of Representatives (but not the Senate) had passed a money-laundering bill that did not use the word

Under either of the word's ordinary definitions, all provisions of the federal money-laundering statute are coherent; no provisions are redundant; and the statute is not rendered utterly absurd. From the face of the statute, there is no more reason to think that "proceeds" means "receipts" than there is to think that "proceeds" means "profits." Under a long line of our decisions, the tie must go to the defendant. The rule of lenity requires ambiguous criminal laws to be interpreted in favor of the defendants subjected to them. See *United States* v. *Gradwell*, 243 U. S. 476, 485 (1917); *McBoyle* v. *United States*, 283 U. S. 25, 27 (1931); *United States* v. *Bass*, 404 U. S. 336, 347–349 (1971). This venerable rule not only vindicates the fundamental principle that no citizen should be held accountable for a violation of a statute whose commands are uncertain, or subjected to punishment that is not clearly prescribed. It also places the weight of inertia upon the party that can best induce Congress to speak more clearly and keeps courts from making criminal law in Congress's stead. Because the "profits" definition of "proceeds" is always more defendant-friendly than the "receipts" definition, the rule of lenity dictates that it should be adopted.

III

Stopping short of calling the "profits" interpretation absurd, the Government contends that the interpretation should nonetheless be rejected because it fails to give the

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"proceeds" but rather used and defined a term ("criminally derived property") that, perhaps, included receipts. See *post*, at 5, n. 5. Putting aside the question whether resort to legislative history is ever appropriate when interpreting a criminal statute, compare *United States* v. *R. L. C.*, 503 U. S. 291, 306, n. 6 (1992), with *id.*, at 307 (SCALIA, J., concurring in part and concurring in judgment), that bit of it is totally unenlightening because we do not know why the earlier House terminology was rejected—because "proceeds" captured the same meaning, or because "proceeds" carried a narrower meaning?

federal money-laundering statute its proper scope and because it hinders effective enforcement of the law. Neither contention overcomes the rule of lenity.

A

According to the Government, if we do not read "proceeds" to mean "receipts," we will disserve the purpose of the federal money-laundering statute, which is, the Government says, to penalize criminals who conceal or promote their illegal activities. On the Government's view, "[t]he gross receipts of a crime accurately reflect the scale of the criminal activity, because the illegal activity generated all of the funds." Brief for United States 21; see also *post*, at 5–7 (ALITO, J., dissenting).

When interpreting a criminal statute, we do not play the part of a mind reader. In our seminal rule-of-lenity decision, Chief Justice Marshall rejected the impulse to speculate regarding a dubious congressional intent. "[P]robability is not a guide which a court, in construing a penal statute, can safely take." *United States* v. *Wiltberger*, 5 Wheat. 76, 105 (1820). And Justice Frankfurter, writing for the Court in another case, said the following: "When Congress leaves to the Judiciary the task of imputing to Congress an undeclared will, the ambiguity should be resolved in favor of lenity." *Bell* v. *United States*, 349 U. S. 81, 83 (1955).

The statutory purpose advanced by the Government to construe "proceeds" is a textbook example of begging the question. To be sure, if "proceeds" meant "receipts," one could say that the statute was aimed at the dangers of concealment and promotion. But whether "proceeds" means "receipts" is the very issue in the case. If "proceeds" means "profits," one could say that the statute is aimed at the distinctive danger that arises from leaving in criminal hands the yield of a crime. A rational Congress could surely have decided that the risk of leveraging one

criminal activity into the next poses a greater threat to society than the mere payment of crime-related expenses and justifies the money-laundering statute's harsh penalties.

If we accepted the Government's invitation to speculate about congressional purpose, we would also have to confront and explain the strange consequence of the "receipts" interpretation, which respondents have described as a "merger problem." See, *e.g.,* Brief for Respondent Diaz 34. If "proceeds" meant "receipts," nearly every violation of the illegal-lottery statute would also be a violation of the money-laundering statute, because paying a winning bettor is a transaction involving receipts that the defendant intends to promote the carrying on of the lottery. Since few lotteries, if any, will not pay their winners, the statute criminalizing illegal lotteries, 18 U. S. C. §1955, would "merge" with the money-laundering statute. Congress evidently decided that lottery operators ordinarily deserve up to 5 years of imprisonment, §1955(a), but as a result of merger they would face an additional 20 years, §1956(a)(1). Prosecutors, of course, would acquire the discretion to charge the lesser lottery offense, the greater money-laundering offense, or both—which would predictably be used to induce a plea bargain to the lesser charge.

The merger problem is not limited to lottery operators. For a host of predicate crimes, merger would depend on the manner and timing of payment for the expenses associated with the commission of the crime. Few crimes are entirely free of cost, and costs are not always paid in advance. Anyone who pays for the costs of a crime with its proceeds—for example, the felon who uses the stolen money to pay for the rented getaway car—would violate the money-laundering statute. And any wealth-acquiring crime with multiple participants would become money-laundering when the initial recipient of the wealth gives

his confederates their shares.[4] Generally speaking, any specified unlawful activity, an episode of which includes transactions which are not elements of the offense and in which a participant passes receipts on to someone else, would merge with money laundering. There are more than 250 predicate offenses for the money-laundering statute, see Dept. of Justice, Bureau of Justice Statistics, M. Motivans, Money Laundering Offenders 1994–2001, p. 2 (2003), online at http://www.ojp.usdoj.gov/bjs/pub/pdf/mlo01.pdf (as visited May 29, 2008, and available in Clerk of Court's case file), and many foreseeably entail such transactions, see 18 U. S. C. §1956(c)(7) (establishing as predicate offenses a number of illegal trafficking and selling offenses, the expenses of which might be paid after the illegal transportation or sale).

The Government suggests no explanation for why Congress would have wanted a transaction that is a normal part of a crime it had duly considered and appropriately punished elsewhere in the Criminal Code to radically increase the sentence for that crime. Interpreting "proceeds" to mean "profits" eliminates the merger problem. Transactions that normally occur during the course of running a lottery are not identifiable uses of profits and thus do not violate the money-laundering statute. More generally, a criminal who enters into a transaction paying the expenses of his illegal activity cannot possibly violate the money-laundering statute, because by definition profits consist of what remains after expenses are paid. Defraying an activity's costs with its receipts simply will not be covered.

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[4] The Solicitor General suggests that this is the case even under the "profits" interpretation. See Reply Brief for United States 16; see also *post*, at 15–16 (ALITO, J., dissenting). That is not so, because when the "loot" comes into the hands of the later distributing felon his confederates' shares are (as to him) not profits but mere receipts subject to his payment of expenses.

The principal dissent suggests that a solution to the merger problem may be found in giving a narrow interpretation to the "promotion prong" of the statute: A defendant might be deemed not to "promote" illegal activity "by doing those things . . . that are needed merely to keep the business running," *post*, at 18, because promotion (presumably) means doing things that will cause a business to grow. See Webster's 2d, p. 1981 (giving as one of the meanings of "promote" "[t]o contribute to the growth [or] enlargement" of something). (This argument is embraced by JUSTICE BREYER's dissent as well. See *post*, at 2.) The federal money-laundering statute, however, bars not the bare act of promotion, but engaging in certain transactions "with the intent to promote *the carrying on* of specified unlawful activity." 18 U. S. C. §1956(a)(1)(A)(i) (emphasis added). In that context the word naturally bears one of its other meanings, such as "[t]o contribute to the . . . prosperity" of something, or to "further" something. See Webster's 2d, p. 1981. Surely one promotes "the carrying on" of a gambling enterprise by merely assuring that it continues in business.[5] In any event, to believe that this "narrow" interpretation of "promote" would solve the merger problem one must share the dissent's misperception that the statute applies just to the conduct of ongoing enterprises rather than individual unlawful acts. If the predicate act is theft by an individual, it makes no sense to ask whether an expenditure was intended to "grow" the culprit's theft

[5] We note in passing the peculiarity that a dissent which rejects our interpretation of "proceeds" because knowledge of profits will be difficult to prove, suggests an interpretation of "promotes" that will require proving that a particular expenditure was intended, not merely to keep a business "running," but to expand it. ("You must decide, ladies and gentlemen of the jury, whether it is true beyond a reasonable doubt that the payoff of this winning bettor was not simply motivated by a desire to bring him and other current gambling customers back, but was meant to create a reputation for reliable payoff that would attract future customers.")

business. The merger problem thus stands as a major obstacle to the dissent's interpretation of "proceeds."

JUSTICE BREYER admits that the merger problem casts doubt on the Government's position, *post*, at 1, but believes there are "other, more legally felicitous" solutions to the problem, *post*, at 2. He suggests that the merger problem could be solved by holding that "the money laundering offense and the underlying offense that generated the money to be laundered must be distinct in order to be separately punishable." *Ibid.* The insuperable difficulty with this solution is that it has no basis whatever in the words of the statute. Even assuming (as one should not) the propriety of a judicial rewrite, why should one believe that Congress wanted courts to avoid the merger problem in that unusual fashion, rather than by adopting one of the two possible meanings of an ambiguous term? JUSTICE BREYER pins hope on the possibility, "if the 'merger' problem is essentially a problem of fairness in sentencing," that the United States Sentencing Commission might revise its recommended sentences for money laundering. *Post*, at 2–3. See also principal dissent, *post*, at 17–18 (in agreement). Even if that is a possibility, it is not a certainty. And once again, why should one choose this chancy method of solving the problem, rather than interpret ambiguous language to avoid it? In any event, as noted, *supra*, at 8, the merger problem affects more than just sentencing; it affects charging decisions and plea-bargaining as well.

B

The Government also argues for the "receipts" interpretation because—quite frankly—it is easier to prosecute. Proving the proceeds and knowledge elements of the federal money-laundering offense under the "profits" interpretation will unquestionably require proof that is more difficult to obtain. Essentially, the Government asks us to

resolve the statutory ambiguity in light of Congress's presumptive intent to facilitate money-laundering prosecutions. That position turns the rule of lenity upside-down. We interpret ambiguous criminal statutes in favor of defendants, not prosecutors.

It is true that the "profits" interpretation demands more from the Government than the "receipts" interpretation. Not so much more, however, as to render such a disposition inconceivable—as proved by the fact that Congress has imposed similar proof burdens upon the prosecution elsewhere. See 18 U. S. C. §1963(a) (criminal forfeiture provision requiring determination of "gross profits or other proceeds"); 21 U. S. C. §853(a) (same).[6] It is untrue that the added burdens "serve no discernible purpose." *Post*, at 12 (ALITO, J., dissenting). They ensure that the severe money-laundering penalties will be imposed only for the removal of profits from criminal activity, which permit the leveraging of one criminal activity into the next. See *supra*, at 7–8.

In any event, the Government exaggerates the difficulties. The "proceeds of specified unlawful activity" are the proceeds from the conduct sufficient to prove *one* predicate offense. Thus, to establish the proceeds element under the "profits" interpretation, the prosecution needs to show only that a single instance of specified unlawful activity was profitable and gave rise to the money involved in a charged transaction. And the Government, of course, can select the instances for which the profitability is clearest.

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[6] The principal dissent claims that these statutes do not require proof of profits because the Government could rely upon the "other proceeds" prong, which the dissent interprets to mean *all* proceeds, gross profits and everything else. See *post*, at 16. We do not normally interpret a text in a manner that makes one of its provisions superfluous. But even if we did, these provisions would still establish what the dissent believes unthinkable: that Congress could envision the Government's proving profits.

Contrary to the principal dissent's view, *post*, at 6, 11–12, the factfinder will not need to consider gains, expenses, and losses attributable to other instances of specified unlawful activity, which go to the profitability of some entire criminal enterprise. What counts is whether the receipts from the charged unlawful act exceeded the costs fairly attributable to it.[7]

When the Government charges an "enterprise" crime as the predicate offense, see, *e.g.,* 18 U. S. C. §1956(c)(7)(C), it will have to prove the profitability of only the conduct sufficient to violate the enterprise statute. That is typically defined as a "continuing series of violations," 21 U. S. C. §848(c)(2), which would presumably be satisfied by three violations, see *Richardson* v. *United States*, 526 U. S. 813, 818 (1999). Thus, the Government will have to prove the profitability of just three offenses, selecting (again) those for which profitability is clearest. And of course a prosecutor will often be able to charge the under-

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[7] The principal dissent asks, "[H]ow long does each gambling 'instance' last?" *Post*, at 14. The answer is "as long as the Government chooses to charge." Title 18 U. S. C. §1955(a) provides that "[w]hoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business shall be fined under this title or imprisoned not more than five years, or both." An illegal gambling business is an illegal gambling business during each moment of its operation, and it will be up to the Government to select that period of time for which it can most readily establish the necessary elements of the charged offenses, including (if money laundering is one of them) profitability. (To the extent this raises the possibility of the Government's making multiple violations out of one person's running of a single business, that problem arises no matter what definition of "proceeds" is adopted.) The "preposterous results" that the dissent attributes to our interpretation of "proceeds," *post*, at 14, are in fact the consequence of the Government's decision to charge Santos with conducting a gambling business over a 6-year period. Of course in the vast majority of cases, establishing the profitability of the predicate offense will not put the Government to the task of identifying the relevant period. Most criminal statutes prohibit discrete, individual acts (fraud, bank robbery) rather than the conduct of a business.

lying crimes instead of the overarching enterprise crime.

As for the knowledge element of the money-laundering offense—knowledge that the transaction involves profits of unlawful activity—that will be provable (as knowledge must almost always be proved) by circumstantial evidence. For example, someone accepting receipts from what he knows to be a long-continuing drug-dealing operation can be found to know that they include some profits. And a jury could infer from a long-running launderer-criminal relationship that the launderer knew he was hiding the criminal's profits. Moreover, the Government will be entitled to a willful blindness instruction if the professional money launderer, aware of a high probability that the laundered funds were profits, deliberately avoids learning the truth about them—as might be the case when he knows that the underlying crime is one that is rarely unprofitable.

IV

Concurring in the judgment, JUSTICE STEVENS expresses the view that the rule of lenity applies to this case because there is no legislative history reflecting any legislator's belief about how the money-laundering statute should apply to lottery operators. See *post*, at 3, 5. The rule of lenity might not apply, he thinks, in a case involving an organized crime syndicate or the sale of contraband because the legislative history supposedly contains some views on the meaning of "proceeds" in those circumstances.[8] See *post*, at 2–3, and n. 3. In short, JUSTICE

[8] JUSTICE STEVENS fails to identify the legislative history to which he refers. He offers only: "As JUSTICE ALITO rightly argues, the legislative history of §1956 makes it clear that Congress intended the term 'proceeds' to include gross revenues from the sale of contraband and the operation of organized crime syndicates involving such sales." *Post*, at 2–3. Although JUSTICE ALITO, from one item of legislative history, draws an inference about the meaning of "proceeds" in all its applications (which we find dubious, see n. 3, *supra*), nowhere does he cite

STEVENS would interpret "proceeds" to mean "profits" for some predicate crimes, "receipts" for others.

JUSTICE STEVENS' position is original with him; neither the United States nor any *amicus* suggested it; it has no precedent in our cases. JUSTICE STEVENS relies on the proposition that one undefined word, repeated in different statutory provisions, can have different meanings in each provision. See *post*, at 2, and n. 2. But that is worlds apart from giving the same word, *in the same statutory provision*, different meanings *in different factual contexts*. Not only have we never engaged in such interpretive contortion; just over three years ago, in an opinion joined by JUSTICE STEVENS, we forcefully rejected it. *Clark* v. *Martinez*, 543 U. S. 371 (2005), held that the meaning of words in a statute cannot change with the statute's application. See *id.,* at 378. To hold otherwise "would render every statute a chameleon," *id.,* at 382, and "would establish within our jurisprudence . . . the dangerous principle that judges can give the same statutory text different meanings in different cases," *id.,* at 386. Precisely to avoid that result, our cases often "give a statute's ambiguous language a limiting construction called for by one of the statute's applications, even though other of the statute's applications, standing alone, would not support the same limitation. *The lowest common denominator, as it were, must govern*." *Id.,* at 380 (emphasis added).

Our obligation to maintain the consistent meaning of words in statutory text does not disappear when the rule of lenity is involved. To the contrary, we have resolved an ambiguity in a tax statute in favor of the taxpayer in a civil case because the statute had criminal applications

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legislative history addressing the meaning of the word "proceeds" in cases specifically involving contraband or organized crime. Thus JUSTICE STEVENS' concurrence appears to address not only a hypothetical case, see *infra*, at 16, but even an imagined legislative history.

that triggered the rule of lenity. See *United States* v. *Thompson/Center Arms Co.*, 504 U. S. 505, 517–518, and n. 10 (1992) (plurality opinion). If anything, the rule of lenity is an additional reason to remain consistent, lest those subject to the criminal law be misled. And even if, as JUSTICE STEVENS contends, *post*, at 1, statutory ambiguity "effectively" licenses us to write a brand-new law, we cannot accept that power in a criminal case, where the law must be written by Congress. See *United States* v. *Hudson*, 7 Cranch 32, 34 (1812).

We think it appropriate to add a word concerning the *stare decisis* effect of JUSTICE STEVENS' opinion. Since his vote is necessary to our judgment, and since his opinion rests upon the narrower ground, the Court's holding is limited accordingly. See *Marks* v. *United States*, 430 U. S. 188, 193 (1977). But the narrowness of his ground consists of finding that "proceeds" means "profits" when there is no legislative history to the contrary. That is all that our judgment holds. It does not hold that the outcome is different when contrary legislative history does exist. JUSTICE STEVENS' speculations on that point address a case that is not before him, are the purest of dicta, and form no part of today's holding. Thus, as far as this particular statute is concerned, counsel remain free to argue JUSTICE STEVENS' view (and to explain why it does not overrule *Clark* v. *Martinez*, *supra*). They should be warned, however: Not only do the Justices joining this opinion reject that view, but so also (apparently) do the Justices joining the principal dissent. See *post*, at 2, 17.

V

The money-laundering charges brought against Santos were based on his payments to the lottery winners and his employees, and the money-laundering charge brought against Diaz was based on his receipt of payments as an employee. Neither type of transaction can fairly be char-

acterized as involving the lottery's profits. Indeed, the Government did not try to prove, and respondents have not admitted, that they laundered criminal profits. We accordingly affirm the judgment of the Court of Appeals.

It is so ordered.