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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

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UNITED STATES *v.* SANTOS ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE SEVENTH CIRCUIT

No. 06–1005. Argued October 3, 2007—Decided June 2, 2008

In an illegal lottery run by respondent Santos, runners took commissions from the bets they gathered, and some of the rest of the money was paid as salary to respondent Diaz and other collectors and to the winning gamblers. Based on these payments to runners, collectors, and winners, Santos was convicted of, *inter alia*, violating the federal money-laundering statute, 18 U. S. C. §1956, which prohibits the use of the “proceeds” of criminal activities for various purposes, including engaging in, and conspiring to engage in, transactions intended to promote the carrying on of unlawful activity, §1956(a)(1)(A)(i) and §1956(h). Based on his receipt of salary, Diaz pleaded guilty to conspiracy to launder money. The Seventh Circuit affirmed the convictions. On collateral review, the District Court ruled that, under intervening Circuit precedent interpreting the word “proceeds” in the federal money-laundering statute, §1956(a)(1)(A)(i) applies only to transactions involving criminal profits, not criminal receipts. Finding no evidence that the transactions on which respondents’ money-laundering convictions were based involved lottery profits, the court vacated those convictions. The Seventh Circuit affirmed.

Held: The judgment is affirmed.

461 F. 3d 886, affirmed.

JUSTICE SCALIA, joined by JUSTICE SOUTER, JUSTICE THOMAS, and JUSTICE GINSBURG, concluded in Parts I–III and V that the term “proceeds” in §1956(a)(1) means “profits,” not “receipts.” Pp. 3–14, 16–17.

(a) The rule of lenity dictates adoption of the “profits” reading. The statute nowhere defines “proceeds.” An undefined term is generally given its ordinary meaning. *Asgrow Seed Co. v. Winterboer*, 513 U. S. 179, 187. However, dictionaries and the Federal Criminal Code

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sometimes define “proceeds” to mean “receipts” and sometimes “profits.” Moreover, the many provisions in the federal money-laundering statute that use the word “proceeds” make sense under either definition. The rule of lenity therefore requires the statute to be interpreted in favor of defendants, and the “profits” definition of “proceeds” is always more defendant-friendly than the “receipts” definition. Pp. 3–6.

(b) The Government’s contention that the “profits” interpretation fails to give the money-laundering statute its intended scope begs the question; the Government’s contention that the “profits” interpretation hinders effective enforcement of the law is exaggerated. Neither suffices to overcome the rule of lenity. Pp. 6–14.

(c) None of the transactions on which respondents’ money-laundering convictions were based can fairly be characterized as involving the lottery’s profits. Pp. 16–17.

JUSTICE SCALIA, joined by JUSTICE SOUTER and JUSTICE GINSBURG, concluded in Part IV that JUSTICE STEVENS’ position that “proceeds” should be interpreted to mean profits for some predicate crimes, “receipts” for others, is contrary to this Court’s precedents holding that judges cannot give the same statutory text different meanings in different cases, see *Clark v. Martinez*, 543 U. S. 371. Pp. 14–16.

JUSTICE STEVENS concluded that revenue a gambling business uses to pay essential operating expenses is not “proceeds” under 18 U. S. C. §1956. When, as here, Congress fails to define potentially ambiguous statutory terms, it effectively delegates the task to federal judges. See *Commissioner v. Fink*, 483 U. S. 89, 104. Because Congress could have required that “proceeds” have one meaning when referring to some of the specified unlawful activities listed in §1956(c)(7) and a different meaning when referring to others, judges filling statutory gaps may also do so, as long as they are conscientiously endeavoring to carry out Congress’ intent. Section 1956’s legislative history makes clear that “proceeds” includes gross revenues from the sale of contraband and the operation of organized crime syndicates involving such sales, but sheds no light on how to identify the proceeds of an unlicensed stand-alone gambling venture. Furthermore, the consequences of applying a “gross receipts” definition of “proceeds” to respondents are so perverse that Congress could not have contemplated them: Allowing the Government to treat the mere payment of an illegal gambling business’ operating expenses as a separate offense is in practical effect tantamount to double jeopardy, which is particularly unfair in this case because the penalties for money laundering are substantially more severe than those for the underlying offense of operating a gambling business. Accordingly, the rule of lenity may weigh in the determination, and in that respect

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the plurality’s opinion is persuasive. Pp. 1–6.

SCALIA, J., announced the judgment of the Court and delivered an opinion, in which SOUTER and GINSBURG, JJ., joined, and in which THOMAS, J., joined as to all but Part IV. STEVENS, J., filed an opinion concurring in the judgment. BREYER, J., filed a dissenting opinion. ALITO, J., filed a dissenting opinion, in which ROBERTS, C. J., and KENNEDY and BREYER, JJ., joined.