

GINSBURG, J., concurring in judgment

**SUPREME COURT OF THE UNITED STATES**

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No. 06–571

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MICHAEL A. WATSON, PETITIONER *v.*  
UNITED STATES

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

[December 10, 2007]

JUSTICE GINSBURG, concurring in the judgment.

It is better to receive than to give, the Court holds today, at least when the subject is guns. Distinguishing, as the Court does, between trading a gun for drugs and trading drugs for a gun, for purposes of the 18 U. S. C. §924(c)(1) enhancement, makes scant sense to me. I join the Court’s judgment, however, because I am persuaded that the Court took a wrong turn in *Smith v. United States*, 508 U. S. 223 (1993), when it held that trading a gun for drugs fits within §924(c)(1)’s compass as “us[e]” of a firearm “during and in relation to any . . . drug trafficking crime.” For reasons well stated by JUSTICE SCALIA in his dissenting opinion in *Smith*, 508 U. S., at 241, I would read the word “use” in §924(c)(1) to mean use as a weapon, not use in a bartering transaction. Accordingly, I would overrule *Smith*, and thereby render our precedent both coherent and consistent with normal usage. Cf. *Henslee v. Union Planters Nat. Bank & Trust Co.*, 335 U. S. 595, 600 (1949) (Frankfurter, J., dissenting) (“Wisdom too often never comes, and so one ought not to reject it merely because it comes late.”).