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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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JOHNSON *v.* UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 08–6925. Argued October 6, 2009—Decided March 2, 2010

Petitioner Johnson pleaded guilty to possession of ammunition by a convicted felon. 18 U. S. C. §922(g)(1). The Government sought sentencing under the Armed Career Criminal Act, which authorizes an enhanced penalty for a person who violates §922(g) and who "has three previous convictions" for "a violent felony," §924(e)(1), defined as, *inter alia,* an offense that "has as an element the use . . . of physical force against the person of another," §924(e)(2)(B)(i). Among the three prior felony convictions the Government proffered was Johnson's 2003 Florida conviction for simple battery, which ordinarily is a first-degree misdemeanor, Fla. Stat. §784.03(1)(b), but was a felony conviction for Johnson because he had previously been convicted of another battery, Fla. Stat. §784.03(2). Under Florida law, a battery occurs when a person either "[a]ctually and intentionally touches or strikes another person against [his] will," or "[i]ntentionally causes bodily harm to another person." §784.03(1)(a). Nothing in the record permitted the District Court to conclude that Johnson's 2003 conviction rested upon the "strik[ing]" or "[i]ntentionally caus[ing] bodily harm" elements of the offense. Accordingly, his conviction was a predicate conviction for a "violent felony" under the Armed Career Criminal Act only if "[a]ctually and intentionally touch[ing]" another constitutes the use of "physical force" under §924(e)(2)(B)(i). Concluding it does, the District Court enhanced Johnson's sentence under §924(e)(1), sentencing him to a term of 15 years and 5 months. The Eleventh Circuit affirmed.

Held: The Florida felony offense of battery by "[a]ctually and intentionally touch[ing]" another person does not have "as an element the use . . . of physical force against the person of another," §924(e)(2)(B)(i), and thus does not constitute a "violent felony" under §924(e)(1).

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Pp. 3–12.

(a) In interpreting the phrase "physical force" in §924(e)(2)(B)(i), the Court is not bound by the Florida Supreme Court's conclusion in *State* v. *Hearns*, 961 So. 2d 211, 218, that, under Florida's statutory equivalent to the Armed Career Criminal Act, Fla. Stat. §775.084, the offense of battery does not "involve the use . . . of physical force or violence against any individual," Fla. Stat. §776.08. The meaning of "physical force" in §924(e)(2)(B)(i) is a question of federal law, not state law. The Court is bound, however, by the Florida Supreme Court's interpretation of the elements of the state law offense, including the Florida Supreme Court's holding that §784.03(1)(a)'s element of "[a]ctually and intentionally touching" another person is satisfied by *any* intentional physical contact, no matter how slight. Pp. 3–4.

(b) Because §924(e)(2)(B)(i) does not define "physical force," the Court gives the phrase its ordinary meaning. *Bailey* v. *United States*, 516 U. S. 137, 144–145. The adjective "physical" is clear. The noun "force," however, has a number of meanings. Its ordinary meaning refers to the application of strength, power, and violence—in this context, against another person. Pp. 4–5.

(c) The Government suggests that "force" in §924(e)(2)(B)(i)'s definition of "violent felony" is a legal term of art describing one of the elements of the common-law crime of battery. At common law, that element was satisfied by even the slightest offensive touching. Although a common-law term of art should be given its established common-law meaning, the Court does not ascribe to a statutory term a common-law meaning where that meaning does not fit. Here "physical force" is used in defining not the crime of battery, but rather the statutory category of "*violent* felony." §924(e)(2)(B)(i). In that context, "physical force" means *violent* force—*i.e.,* force capable of causing physical pain or injury to another person. Cf. *Leocal* v. *Ashcroft*, 543 U. S. 1, 11. Moreover, it is significant that the meaning the Government seeks to impute to the term "force" derives from the elements of a common-law misdemeanor. Nothing in the text of §924(e)(2)(B)(i) suggests that "force" in the definition of a "violent felony" should be regarded as a common-law term of art used to define the contours of a misdemeanor. Nor can any negative inference about the amount of "force" required by §924(e)(2)(B)(i) be drawn from §924(e)(2)(B)(ii) and §922(g)(8)(C)(ii). Pp. 5–9.

(d) There is no force to the Government's prediction that this decision will undermine its ability to enforce §922(g)(9)'s firearm disability against a person previously convicted of a misdemeanor crime of domestic violence that has as an element the "use . . . of physical force," §921(a)(33)(A)(ii). The Court interprets the phrase "physical force" only in the context of a statutory definition of "violent felony,"

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and does not decide whether the same meaning applies in the context of defining the scope of misdemeanor offenses. Similarly misplaced is the Government's assertion that it will now be more difficult to obtain sentencing enhancements for individuals convicted under generic felony-battery statutes that cover both violent force and unwanted physical contact, and to remove an alien convicted of a nonviolent battery conviction under the statutory provision for an alien convicted of a "crime of domestic violence," 8 U. S. C. §1227(a)(2)(E). See, *e.g., Chambers* v. *United States*, 555 U. S. ___, ___; *Shepard* v. *United States*, 544 U. S. 13, 26. Pp. 9–11.

(e) Before the District Court the Government disclaimed any reliance upon the so-called "residual clause" of the definition of "violent felony" in §924(e)(2)(B)(ii), which covers an offense that "involves conduct that presents a serious potential risk of physical injury to another." Accordingly, the Court declines to remand for consideration whether Johnson's 2003 battery conviction qualifies as a "violent felony" under that provision. Pp. 11–12.

528 F. 3d 1318, reversed and remanded.

SCALIA, J., delivered the opinion of the Court, in which ROBERTS, C. J., and STEVENS, KENNEDY, GINSBURG, BREYER, and SOTOMAYOR, JJ., joined. ALITO, J., filed a dissenting opinion, in which THOMAS, J., joined.