YATES v. UNITED STATES
135 S.Ct. 1074 (2015)

Justice GINSBURG announced the judgment of the Court and delivered an opinion, in which THE CHIEF JUSTICE, Justice BREYER, and Justice SOTOMAYOR join.

John Yates, a commercial fisherman, caught undersized red grouper in federal waters in the Gulf of Mexico. To prevent federal authorities from confirming that he had harvested undersized fish, Yates ordered a crew member to toss the suspect catch into the sea. For this offense, he was charged with, and convicted of, violating 18 U.S.C. § 1519, which provides:

> "Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both."

Yates was also indicted and convicted under § 2232(a) * * * [but] does not contest his conviction for violating § 2232(a), but he maintains that fish are not trapped within the term "tangible object," as that term is used in § 1519.

Section 1519 was enacted as part of the Sarbanes–Oxley Act of 2002, * * * legislation designed to protect investors and restore trust in financial markets following the collapse of Enron Corporation. A fish is no doubt an object that is tangible; fish can be seen, caught, and handled, and a catch, as this case illustrates, is vulnerable to destruction. But it would cut § 1519 loose from its financial-fraud mooring to hold that it encompasses any and all objects, whatever their size or significance, destroyed with obstructive intent. Mindful that in Sarbanes–Oxley, Congress trained its attention on corporate and accounting deception and cover-ups, we conclude that a matching construction of § 1519 is in order: A tangible object captured by § 1519, we hold, must be one used to record or preserve information.

On August 23, 2007, the *Miss Katie,* a commercial fishing boat, was six days into an expedition in the Gulf of Mexico. Her crew numbered three, including Yates, the captain. Engaged in a routine offshore patrol to inspect both recreational and commercial vessels, Officer John Jones of the Florida Fish and Wildlife Conservation Commission decided to board the *Miss Katie* to check on the vessel's compliance with fishing rules. Although the *Miss Katie* was far enough from the Florida coast to be in exclusively federal waters, she was nevertheless within Officer Jones's jurisdiction. Because he had been deputized as a federal agent by the National Marine Fisheries Service, Officer Jones had authority to enforce federal, as well as state, fishing laws.

Upon boarding the *Miss Katie,* Officer Jones noticed three red grouper that appeared to be undersized hanging from a hook on the deck. At the time, federal conservation regulations required immediate

release of red grouper less than 20 inches long. * * * Violation of those regulations is a civil offense punishable by a fine or fishing license suspension. * * *

Suspecting that other undersized fish might be on board, Officer Jones proceeded to inspect the ship's catch, setting aside and measuring only fish that appeared to him to be shorter than 20 inches. Officer Jones ultimately determined that 72 fish fell short of the 20 inch mark. A fellow officer recorded the length of each of the undersized fish on a catch measurement verification form. With few exceptions, the measured fish were between 19 and 20 inches; three were less than 19 inches; none were less than 18.75 inches. After separating the fish measuring below 20 inches from the rest of the catch by placing them in wooden crates, Officer Jones directed Yates to leave the fish, thus segregated, in the crates until the *Miss Katie* returned to port. Before departing, Officer Jones issued Yates a citation for possession of undersized fish.

Four days later, after the *Miss Katie* had docked in Cortez, Florida, Officer Jones measured the fish contained in the wooden crates. This time, however, the measured fish, although still less than 20 inches, slightly exceeded the lengths recorded on board. Jones surmised that the fish brought to port were not the same as those he had detected during his initial inspection. Under questioning, one of the crew members admitted that, at Yates's direction, he had thrown overboard the fish Officer Jones had measured at sea, and that he and Yates had replaced the tossed grouper with fish from the rest of the catch.

For reasons not disclosed in the record before us, more than 32 months passed before criminal charges were lodged against Yates. On May 5, 2010, he was indicted for destroying property to prevent a federal seizure, in violation of § 2232(a), and for destroying, concealing, and covering up undersized fish to impede a federal investigation, in violation of § 1519. By the time of the indictment, the minimum legal length for Gulf red grouper had been lowered from 20 inches to 18 inches. * * * No measured fish in Yates's catch fell below that limit. The record does not reveal what civil penalty, if any, Yates received for his possession of fish undersized under the 2007 regulation. * * *

Yates was tried on the criminal charges in August 2011. * * * For violating § 1519 and § 2232(a), the court sentenced Yates to imprisonment for 30 days, followed by supervised release for three years. * * * For life, he will bear the stigma of having a federal felony conviction. We granted certiorari, 572 U.S. —— (2014), and now reverse the Eleventh Circuit's judgment.

The Sarbanes–Oxley Act, all agree, was prompted by the exposure of Enron's massive accounting fraud and revelations that the company's outside auditor, Arthur Andersen LLP, had systematically destroyed potentially incriminating documents. The Government acknowledges that § 1519 was intended to prohibit, in particular, corporate document-shredding to hide evidence of financial wrongdoing. * * * In the Government's view, § 1519 extends beyond the principal evil motivating its passage. The words of § 1519, the Government argues, support reading the provision as a general ban on the spoliation of evidence, covering all physical items that might be relevant to any matter under federal investigation.

Yates urges a contextual reading of § 1519, tying "tangible object" to the surrounding words, the placement of the provision within the Sarbanes–Oxley Act, * * *. Section 1519, he maintains, targets not

all manner of evidence, but records, documents, and tangible objects used to preserve them, *e.g.*, computers, servers, and other media on which information is stored.

We agree with Yates and reject the Government's unrestrained reading. "Tangible object" in § 1519, we conclude, is better read to cover only objects one can use to record or preserve information, not all objects in the physical world.

The ordinary meaning of an "object" that is "tangible," as stated in dictionary definitions, is "a discrete ... thing," Webster's Third New International Dictionary 1555 (2002), that "possess[es] physical form," Black's Law Dictionary 1683 (10th ed.2014). From this premise, the Government concludes that "tangible object," as that term appears in § 1519, covers the waterfront, including fish from the sea.

Whether a statutory term is unambiguous, however, does not turn solely on dictionary definitions of its component words. Rather, "[t]he plainness or ambiguity of statutory language is determined [not only] by reference to the language itself, [but as well by] the specific context in which that language is used, and the broader context of the statute as a whole." * * * In law as in life, however, the same words, placed in different contexts, sometimes mean different things.

Familiar interpretive guides aid our construction of the words "tangible object" as they appear in § 1519. * * * [The Court discusses some of the different interpretive guides used by courts in interpreting statutes, such as looking at the surrounding words, whether general words follow specific words, and looking at legislative intent when the statute was written.]

Finally, if our recourse to traditional tools of statutory construction leaves any doubt about the meaning of "tangible object," as that term is used in § 1519, we would invoke the rule that "ambiguity concerning the ambit of criminal statutes should be resolved in favor of lenity." * * * That interpretative principle is relevant here, where the Government urges a reading of § 1519 that exposes individuals to 20–year prison sentences for tampering with *any* physical object that *might* have evidentiary value in *any* federal investigation into *any* offense, no matter whether the investigation is pending or merely contemplated, or whether the offense subject to investigation is criminal or civil. * * * In determining the meaning of "tangible object" in § 1519, "it is appropriate, before we choose the harsher alternative, to require that Congress should have spoken in language that is clear and definite." * * *

For the reasons stated, we resist reading § 1519 expansively to create a coverall spoliation of evidence statute, advisable as such a measure might be. Leaving that important decision to Congress, we hold that a "tangible object" within § 1519's compass is one used to record or preserve information. The judgment of the U.S. Court of Appeals for the Eleventh Circuit is therefore reversed, and the case is remanded for further proceedings. * * *

Justice ALITO, concurring in the judgment.

This case can and should be resolved on narrow grounds. And though the question is close, traditional tools of statutory construction confirm that John Yates has the better of the argument. Three features of

18 U.S.C. § 1519 stand out to me: the statute's list of nouns, its list of verbs, and its title. Although perhaps none of these features by itself would tip the case in favor of Yates, the three combined do so.

Start with the nouns. Section 1519 refers to "any record, document, or tangible object." The *noscitur a sociis* canon instructs that when a statute contains a list, each word in that list presumptively has a "similar" meaning. * * * A related canon, *ejusdem generis* teaches that general words following a list of specific words should usually be read in light of those specific words to mean something "similar." * * * Applying these canons to § 1519's list of nouns, the term "tangible object" should refer to something similar to records or documents. A fish does not spring to mind—nor does an antelope, a colonial farmhouse, a hydrofoil, or an oil derrick. All are "objects" that are "tangible." But who wouldn't raise an eyebrow if a neighbor, when asked to identify something similar to a "record" or "document," said "crocodile"? * * *

Next, consider § 1519's list of verbs: "alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in." Although many of those verbs could apply to nouns as far-flung as salamanders, satellites, or sand dunes, the last phrase in the list—"makes a false entry in"—makes no sense outside of filekeeping. How does one make a false entry in a fish? "Alters" and especially "falsifies" are also closely associated with filekeeping. Not one of the verbs, moreover, *cannot* be applied to filekeeping—certainly not in the way that "makes a false entry in" is always inconsistent with the aquatic. * * *

Finally, my analysis is influenced by § 1519's title: "Destruction, alteration, or falsification of *records* in Federal investigations and bankruptcy." (Emphasis added.) This too points toward filekeeping, not fish. Titles can be useful devices to resolve " 'doubt about the meaning of a statute.' * * * The title is especially valuable here because it reinforces what the text's nouns and verbs independently suggest—that no matter how other statutes might be read, this particular one does not cover every noun in the universe with tangible form.

Titles, of course, are also not dispositive. Here, if the list of nouns did not already suggest that "tangible object" should mean something similar to records or documents, especially when read in conjunction with § 1519's peculiar list of verbs with their focus on filekeeping, then the title would not be enough on its own. In conjunction with those other two textual features, however, the Government's argument, though colorable, becomes too implausible to accept. * * *

Justice KAGAN, with whom Justice SCALIA, Justice KENNEDY, and Justice THOMAS join, dissenting.

A criminal law, 18 U.S.C. § 1519, prohibits tampering with "any record, document, or tangible object" in an attempt to obstruct a federal investigation. This case raises the question whether the term "tangible object" means the same thing in § 1519 as it means in everyday language—any object capable of being touched. The answer should be easy: Yes. The term "tangible object" is broad, but clear. Throughout the U.S.Code and many States' laws, it invariably covers physical objects of all kinds. And in § 1519, context confirms what bare text says: All the words surrounding "tangible object" show that Congress meant the term to have a wide range. That fits with Congress's evident purpose in enacting § 1519: to

punish those who alter or destroy physical evidence—*any* physical evidence—with the intent of thwarting federal law enforcement.

The plurality instead interprets "tangible object" to cover "only objects one can use to record or preserve information." * * * The concurring opinion similarly, if more vaguely, contends that "tangible object" should refer to "something similar to records or documents"—and shouldn't include colonial farmhouses, crocodiles, or fish. * * * In my view, conventional tools of statutory construction all lead to a more conventional result: A "tangible object" is an object that's tangible. I would apply the statute that Congress enacted and affirm the judgment below.

While the plurality starts its analysis with § 1519's heading, * * * I would begin with § 1519's text. When Congress has not supplied a definition, we generally give a statutory term its ordinary meaning. * * * As the plurality must acknowledge, the ordinary meaning of "tangible object" is "a discrete thing that possesses physical form." * * * A fish is, of course, a discrete thing that possesses physical form. See generally Dr. Seuss, One Fish Two Fish Red Fish Blue Fish (1960). So the ordinary meaning of the term "tangible object" in § 1519, as no one here disputes, covers fish (including too-small red grouper).

That interpretation accords with endless uses of the term in statute and rule books as construed by courts. Dozens of federal laws and rules of procedure (and hundreds of state enactments) include the term "tangible object" or its first cousin "tangible thing"—some in association with documents, others not. * * * To my knowledge, no court has ever read any such provision to exclude things that don't record or preserve data; rather, all courts have adhered to the statutory language's ordinary (*i.e.*, expansive) meaning. For example, courts have understood the phrases "tangible objects" and "tangible things" in the Federal Rules of Criminal and Civil Procedure to cover everything from guns to drugs to machinery to ... animals. * * * No surprise, then, that—until today—courts have uniformly applied the term "tangible object" in § 1519 in the same way.* * *

And legislative history, for those who care about it, puts extra icing on a cake already frosted. Section 1519, as the plurality notes, * * * was enacted after the Enron Corporation's collapse, as part of the Sarbanes–Oxley Act of 2002, * * *. But the provision began its life in a separate bill, and the drafters emphasized that Enron was "only a case study exposing the shortcomings in our current laws" relating to both "corporate and criminal" fraud. * * *

As Congress recognized in using a broad term, giving immunity to those who destroy non-documentary evidence has no sensible basis in penal policy. A person who hides a murder victim's body is no less culpable than one who burns the victim's diary. A fisherman, like John Yates, who dumps undersized fish to avoid a fine is no less blameworthy than one who shreds his vessel's catch log for the same reason. Congress thus treated both offenders in the same way. It understood, in enacting § 1519, that destroying evidence is destroying evidence, whether or not that evidence takes documentary form.

The plurality searches far and wide for anything—*anything*—to support its interpretation of § 1519. But its fishing expedition comes up empty.

The plurality's analysis starts with § 1519's title: "Destruction, alteration, or falsification of records in Federal investigations and bankruptcy." * * * That's already a sign something is amiss. I know of no

other case in which we have *begun* our interpretation of a statute with the title, or relied on a title to override the law's clear terms. Instead, we have followed "the wise rule that the title of a statute and the heading of a section cannot limit the plain meaning of the text." * * * The reason for that "wise rule" is easy to see: A title is, almost necessarily, an abridgment. Attempting to mention every term in a statute "would often be ungainly as well as useless"; accordingly, "matters in the text ... are frequently unreflected in the headings." * * *

As an initial matter, this Court uses *noscitur a sociis* and *ejusdem generis* to resolve ambiguity, not create it. Those principles are "useful rule[s] of construction where words are of obscure or doubtful meaning." * * * But when words have a clear definition, and all other contextual clues support that meaning, the canons cannot properly defeat Congress's decision to draft broad legislation. * * *

Finally, when all else fails, the plurality invokes the rule of lenity. * * * But even in its most robust form, that rule only kicks in when, "after all legitimate tools of interpretation have been exhausted, 'a reasonable doubt persists' regarding whether Congress has made the defendant's conduct a federal crime." * * * No such doubt lingers here. * * * Every traditional tool of statutory interpretation points in the same direction, toward "object" meaning object. Lenity offers no proper refuge from that straightforward (even though capacious) construction.

The concurring opinion is a shorter, vaguer version of the plurality's. It relies primarily on the *noscitur a sociis* and *ejusdem generis* canons, tries to bolster them with § 1519's "list of verbs," and concludes with the section's title. * * * But § 1519's meaning should not hinge on the odd game of Mad Libs the concurrence proposes. No one reading § 1519 needs to fill in a blank after the words "records" and "documents." That is because Congress, quite helpfully, already did so—adding the term "tangible object." The issue in this case is what that term means. So if the concurrence wishes to ask its neighbor a question, I'd recommend a more pertinent one: Do you think a fish (or, if the concurrence prefers, a crocodile) is a "tangible object"? As to that query, "who wouldn't raise an eyebrow" if the neighbor said "no"?

In insisting on its different question, the concurrence neglects the proper function of catchall phrases like "or tangible object." The reason Congress uses such terms is precisely to reach things that, in the concurrence's words, "do[ ] not spring to mind"—to my mind, to my neighbor's, or (most important) to Congress's. * * * As this Court recently explained: "[T]he whole value of a generally phrased residual [term] is that it serves as a catchall for matters not specifically contemplated—known unknowns." * * * Congress realizes that in a game of free association with "record" and "document," it will never think of all the other things—including crocodiles and fish—whose destruction or alteration can (less frequently but just as effectively) thwart law enforcement. * * * And so Congress adds the general term "or tangible object"—again, exactly because such things "do[ ] not spring to mind."

The concurrence suggests that the term "tangible object" serves not as a catchall for physical evidence but to "ensure beyond question" that e-mails and other electronic files fall within § 1519's compass. * * * But that claim is eyebrow-raising in its own right. Would a Congress wishing to make certain that § 1519 applies to e-mails add the phrase "tangible object" (as opposed, say, to "electronic communications")? Would a judge or jury member predictably find that "tangible object" encompasses

something as virtual as e-mail (as compared, say, with something as real as a fish)? If not (and the answer is not), then that term cannot function as a failsafe for e-mails.

The concurrence acknowledges that no one of its arguments can carry the day; rather, it takes the Latin canons plus § 1519's verbs plus § 1519's title to "tip the case" for Yates. * * * But the sum total of three mistaken arguments is ... three mistaken arguments. They do not get better in the combining. And so the concurrence ends up right where the plurality does, except that the concurrence, eschewing the rule of lenity, has nothing to fall back on.

If none of the traditional tools of statutory interpretation can produce today's result, then what accounts for it? The plurality offers a clue when it emphasizes the disproportionate penalties § 1519 imposes if the law is read broadly. * * * Section 1519, the plurality objects, would then "expose[ ] individuals to 20–year prison sentences for tampering with *any* physical object that *might* have evidentiary value in *any* federal investigation into *any* offense." * * * That brings to the surface the real issue: overcriminalization and excessive punishment in the U.S. Code.

Now as to this statute, I think the plurality somewhat—though only somewhat—exaggerates the matter. The plurality omits from its description of § 1519 the requirement that a person act "knowingly" and with "the intent to impede, obstruct, or influence" federal law enforcement. And in highlighting § 1519's maximum penalty, the plurality glosses over the absence of any prescribed minimum. (Let's not forget that Yates's sentence was not 20 years, but 30 days.) Congress presumably enacts laws with high maximums and no minimums when it thinks the prohibited conduct may run the gamut from major to minor. * * * Most district judges, as Congress knows, will recognize differences between such cases and prosecutions like this one, and will try to make the punishment fit the crime. Still and all, I tend to think, for the reasons the plurality gives, that § 1519 is a bad law—too broad and undifferentiated, with too-high maximum penalties, which give prosecutors too much leverage and sentencers too much discretion. And I'd go further: In those ways, § 1519 is unfortunately not an outlier, but an emblem of a deeper pathology in the federal criminal code.

But whatever the wisdom or folly of § 1519, this Court does not get to rewrite the law. "Resolution of the pros and cons of whether a statute should sweep broadly or narrowly is for Congress." * * * If judges disagree with Congress's choice, we are perfectly entitled to say so—in lectures, in law review articles, and even in dicta. But we are not entitled to replace the statute Congress enacted with an alternative of our own design. I respectfully dissent.