

# Justices' False Statement Ruling Curbs Half-Truth Liability

By **Tamara de Silva** (March 25, 2025)

On March 21, the U.S. Supreme Court issued a unanimous ruling in *Thompson v. U.S.*,<sup>[1]</sup> resolving a split among the federal circuits over the interpretation of Title 18 of the U.S. Code, Section 1014.

Section 1014 is one of the statutes used to prosecute false statements made to influence federally insured financial institutions and agencies such as the Federal Deposit Insurance Corp., Federal Housing Administration or Small Business Administration.<sup>[2]</sup>

At issue in *Thompson* was whether a statement that is literally true, but also misleading — e.g., a half-truth or deliberate omission — can be punished as a false statement under Section 1014.



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Patrick Daley Thompson is a former Chicago alderman and attorney. He was convicted under Section 1014 for making false statements to federal bank regulators about \$219,000 in loans from a failed bank that he had not repaid.

In one phone call with FDIC officials, Thompson claimed he had borrowed \$110,000. By omitting the additional loans, he understated his total debt of \$219,000.

Writing for a unanimous court, which vacated the U.S. Court of Appeals for the Seventh Circuit judgment, Chief Justice John Roberts held that Section 1014 does not extend to misleading-but-technically-true statements.

This long-awaited clarification narrows a statute that has been central in many white collar prosecutions, especially those tied to mortgage fraud, COVID-19 relief applications and other financial crimes.

## Resolution of the Circuit Split

For decades, courts differed as to whether Section 1014 reached deceptive half-truths.

Some circuits had adopted a broader interpretation, concluding that misleading omissions or statements — so long as they intended to deceive a bank — qualified as false under Section 1014. Other circuits required a strictly literal falsehood, refusing to extend the statute to misleading statements.

*Thompson v. U.S.* stands for the narrower and plain-language meaning of the statute.

While other statutes use the word "misleading," Section 1014 does not. This has led to disparate outcomes on similar fact patterns.

In its 2019 decision in *U.S. v. Freed*,<sup>[3]</sup> the Seventh Circuit affirmed a conviction under Section 1014 where a developer's half-truths on loan documents — omitting known liabilities and overstating collateral — were deemed false statements.

But in *U.S. v. Kurlemann* in 2013, the U.S. Court of Appeals for the Sixth Circuit reversed the conviction of a developer who withheld details about a buyer's down payment, because

the court found that half-truths alone do not violate Section 1014, absent a provably false factual assertion.[4]

Such disparate outcomes for effectively similar conduct led commentators to bemoan a geographic lottery in white collar enforcement. The Supreme Court's ruling in Thompson ends that disparity by anchoring liability firmly to actual falsity.

Justice Roberts' opinion put the reasoning succinctly: Congress knows how to prohibit not only false statements, but misleading ones, as well, as multiple federal statutes explicitly do so. Because Section 1014 uses the word "false" without adding any broader language, the court inferred a clear legislative choice to punish only statements that are actually false.

That textual analysis follows prior Supreme Court decisions, such as *Williams v. U.S.* in 1982, which rejected Section 1014 charges for writing bad checks because a check is not a factual assertion;<sup>[5]</sup> and *U.S. v. Wells* in 1997, which limited judicial additions to Section 1014's elements.<sup>[6]</sup>

By drawing a line at literal falsehood, the court alleviates concerns about overcriminalizing ordinary negotiations or evasive replies in financial dealings.

### **Justice Roberts' Majority Opinion**

Justice Roberts' opinion highlights three key points.

#### ***1. Plain Meaning of "False"***

Section 1014 punishes "knowingly mak[ing] any false statement." Per the court, "false" in everyday usage means "not true" — not "misleading" or "incomplete."

Absent explicit statutory language covering omissions or half-truths, courts must stick to literal falsity.

#### ***2. Contextual Clarity in Federal Statutes***

Many statutes across Title 18 include terms like "fraudulent," "fictitious" or "misleading" to cover a broader range of deceptive acts.

Section 1014's singular focus on "false" shows that Congress did not want to criminalize every possible form of deception, only outright factual misstatements. Congress could have used the word "misleading," as it had in other statutes, if this had been its intention.

#### ***3. Existing Precedent and Legislative Intent***

The court relied heavily on the *Williams* ruling, where passing a bad check was not deemed a false statement, and on the *Wells* ruling, which declined to read implied elements into Section 1014. Likewise, the court found no sign in the legislative history that Congress intended a more expansive definition.

Ultimately, the court's unanimous ruling in *Thompson* overturned the Seventh Circuit's decision, which had upheld a conviction based on *Thompson's* misleading but technically true statements about the amount of loan principal he owed to the FDIC.

The court sent the case back for a determination of whether the statements were actually

false, and not merely misleading.

### **Amicus Briefs and Oral Argument Highlights**

Amicus briefs played a notable role in the case.

The National Association of Criminal Defense Lawyers argued that an expansive reading of Section 1014 would render millions of borrowers potentially criminally liable for selectively stating facts during loan negotiations, which raises due process concerns.[7]

The government insisted that actual prosecutions of mere omissions are rare, but several justices pressed for stronger textual support to justify criminalizing literally true statements.

During oral argument, Justices Roberts and Samuel Alito asked the government to identify a statutory hook for penalizing a literally correct but deceptive statement.[8] The assistant to the solicitor general relied primarily on Congress' legislative purpose — protecting financial institutions — but ultimately acknowledged that Congress did not explicitly mention "misleading" conduct.

The justices explored how misleading statements can still be true. A false statement, on the other hand, is not true. Justice Elena Kagan offered a hypothetical involving a surgeon who tells a patient, "I've done a hundred of these surgeries," but omits that "99 of the patients have died." The surgeon misled the patient without uttering anything factually incorrect, illustrating the gap between literal falsity and selective omission.

Justice Ketanji Brown Jackson posed a lighthearted hypothetical: A child who ate 10 cookies, but when asked, "Did you eat all the cookies?" answers, "I ate three." That statement is literally correct, yet leaves the clear, but deceptive, impression that only three were eaten.

The court explained that under Section 1014, the incomplete or cleverly phrased response is not a crime unless it is factually untrue.

The government's attorney countered with a similar scenario: a tennis player who boasts, "I won the championship," yet fails to mention that the victory stemmed from a forfeiture because the opponent failed a drug test. Although the athlete's claim remains literally true, it invites the listener to assume it was a genuine, hard-fought win.

The hypotheticals show that a literally true but misleading statement is not the same as one that is factually false. This challenges the government's stance on conflating the two so that they receive identical treatment under criminal law.

### **Practical Implications for Future White Collar Prosecutions**

Following Thompson, prosecutors can no longer charge defendants under Section 1014 for statements that are literally accurate, even if they are incomplete or likely to mislead a bank. They must prove factual falsity, i.e., that the defendant actually stated something untrue. This excludes mere omissions or ambiguous half-truths from Section 1014's ambit, substantially limiting the statute's prior use in some circuits.

Prosecutors could turn to statutes such as Title 18 of the U.S. Code, Section 1001, which broadly covers "false, fictitious, or fraudulent statement[s]" in matters within federal jurisdiction,[9] or bank fraud under Title 18 of the U.S. Code, Section 1344.[10] Both of

these statutes are interpreted more expansively to include schemes or misleading conduct.

In financial crime cases, especially loan fraud or the increasingly common prosecution of Paycheck Protection Program Economic Injury Disaster Loans fraud, wherein a borrower's statements are misleading but not outright false, the government may pivot to a bank fraud or wire fraud theory, or show that the half-truth was effectively a scheme to defraud.

Defendants have a firmer literal truth defense under Section 1014. If they can show their words were factually correct, even if they were incomplete, courts must acquit unless the prosecution can prove the statements were actually false. This may affect indictments, jury instructions and sufficiency of evidence determinations.

Federal agencies from the FDIC to the SBA may restructure loan forms or interviews to elicit explicit statements. If the question or form demands "all liabilities" or "all debts," any omission can be deemed plainly false. This is different from forms that merely ask for liabilities and debts without completeness.

Though Thompson focuses on one statute, it arguably continues the Supreme Court's seeming trend of narrowly construing criminal statutes, especially in white collar contexts.

Supreme Court decisions like YEAR's *Yates v. U.S.*, limiting obstruction of justice provisions,[11] and YEAR's *McDonnell v. U.S.*, restricting official acts in bribery law, illustrate the court's reluctance to read broad language into the penal code.[12] White collar practitioners should be aware of a consistent judicial move toward textual strictness.[13]

The same tension between literal truth and misleading implication arises when companies communicate with consumers or investors. A corporate disclosure might tout, for example, record revenue without mentioning collapsing profit margins, or advertise zero monthly fees, but bury substantial per-transaction charges in fine print.

While Thompson's focus is on criminal liability for individuals making misleading statements to banks, it highlights a universal lesson: Literal truth can still distort reality. Regulators like the Federal Trade Commission or the U.S. Securities and Exchange Commission often take the position that half-truths about products, services or earnings are equally deceptive.

In those contexts, however, companies face mostly civil or administrative actions under consumer protection or securities laws. This shows how whether partial truths become a legal problem often depends on the specific statute in play, and the form of deception alleged.

## **Conclusion**

*Thompson v. U.S.* carries major ramifications for white collar enforcement, especially in banking and lending contexts. By clarifying that Section 1014 targets only factually false statements, the Supreme Court narrows prosecutorial reach and shields literal half-truths from criminal liability under this particular statute.

Nevertheless, prosecutors retain potent tools in bank fraud or false-statement provisions that explicitly address misleading conduct.

Moving forward, defense counsel will have a more robust basis to challenge borderline Section 1014 charges, and regulators will likely adapt their strategies — whether by using other statutes or by crafting loan forms that require more explicit answers.

For legal professionals advising clients in the financial sector, the message is clear: Thompson reaffirms a textualist approach — "false" means "untrue." Mere deception can still find liability elsewhere, just not under Section 1014.

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- [1] Thompson v. United States, 604 U.S. \_\_\_\_ (2025) (No. 23–1095, Mar. 21, 2025).
- [2] 18 U.S.C. § 1014.
- [3] United States v. Freed, 921 F. 3d 716, 723 (CA7 2019).
- [4] United States v. Kurlemann, 736 F. 3d 439 (CA6 2013).
- [5] Williams v. United States, 458 U.S. 279 (1982).
- [6] United States v. Wells, 519 U.S. 482 (1997).
- [7] NACDL Amicus Brief, Thompson v. United States, No. 23–1095 (filed Nov. 13, 2024).
- [8] Transcript of Oral Argument, Thompson v. United States, No. 23–1095 (Jan. 14, 2025).
- [9] 18 U.S.C. § 1001.
- [10] 18 U.S.C. § 1344.
- [11] Yates v. United States, 574 U.S. 528 (2015).
- [12] McDonnell v. United States, 579 U.S. 550 (2016).
- [13] <https://www.desilvalawoffices.com/articles/blog/2024/october/the-supreme-court-and-thompson-v-united-states-r/>.