SUPREME COURT OF THE UNITED STATES

No. 98–1480

ROBERT A. BECK, II, PETITIONER *v.* RONALD M. PRUPIS ET AL.

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

April 26, 2000

JUSTICE THOMAS delivered the opinion of the Court.

The Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U. S. C. §§1961–1968 (1994 ed. and Supp. IV), creates a civil cause of action for "[a]ny person injured in his business or property by reason of a violation of section 1962." 18 U. S. C. §1964(c) (1994 ed., Supp. IV). Subsection (d) of §1962 in turn provides that "[i]t shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of [§1962]." The question before us is whether a person injured by an overt act done in furtherance of a RICO conspiracy has a cause of action under §1964(c), even if the overt act is not an act of racketeering. We conclude that such a person does not have a cause of action under §1964(c).

I

A

Congress enacted RICO as Title IX of the Organized Crime Control Act of 1970, Pub. L. 91–452, 84 Stat. 922, for the purpose of "seek[ing] the eradication of organized crime in the United States," *id.*, at 923. Congress found that "organized crime in the United States [had become] a

highly sophisticated, diversified, and widespread activity that annually drain[ed] billions of dollars from America's economy by unlawful conduct and the illegal use of force, fraud, and corruption." *Id.*, at 922. The result was to "weaken the stability of the Nation's economic system, harm innocent investors and competing organizations, interfere with free competition, seriously burden interstate and foreign commerce, threaten the domestic security, and undermine the general welfare of the Nation and its citizens." *Id.*, at 923. Finding the existing "sanctions and remedies available to the Government [to be] unnecessarily limited in scope and impact," Congress resolved to address the problem of organized crime "by strengthening the legal tools in the evidence-gathering process, by establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime." *Ibid.*

RICO attempts to accomplish these goals by providing severe criminal penalties for violations of §1962, see §1963, and also by means of a civil cause of action for any person "injured in his business or property by reason of a violation of section 1962," 18 U. S. C. §1964(c) (1994 ed., Supp. IV).[1] Section 1962, in turn, consists of four subsections: Subsection (a) makes it "unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt . . . to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce";[2] subsection (b) makes it "unlawful for

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[1] RICO also authorizes the Government to bring civil actions to "prevent and restrain" violations of §1962. 18 U. S. C. §§1964(a) and (b).

[2] Section 1961(1) contains an exhaustive list of acts of "racketeering,"

any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce"; subsection (c) makes it "unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt"; and, finally, subsection (d) makes it unlawful "for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section."

B

Petitioner, Robert A. Beck II, is a former president, CEO, director, and shareholder of Southeastern Insurance Group (SIG).[3] Respondents, Ronald M. Prupis, Leonard Bellezza, William Paulus, Jr., Ernest S. Sabato, Harry Olstein, Frederick C. Mezey, and Joseph S. Littenberg, are former senior officers and directors of SIG. Until 1990, when it declared bankruptcy, SIG was a Florida insurance holding company with three operating subsidiaries, each of which was engaged in the business of writing surety bonds for construction contractors.

Beginning in or around 1987, certain directors and officers of SIG, including respondents, began engaging in acts

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commonly referred to as "predicate acts." This list includes extortion, mail fraud, and wire fraud, which were among the 50 separate acts of racketeering alleged by petitioner. Section 1961(4) defines "enterprise" as "any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity."

[3] On review of the Court of Appeals' affirmance of summary judgment for respondents, we accept as true the evidence presented by petitioner. *Anderson* v. *Liberty Lobby, Inc.*, 477 U. S. 242, 255 (1986).

of racketeering. They created an entity called Construction Performance Corporation, which demanded fees from contractors in exchange for qualifying them for SIG surety bonds. Respondents also diverted corporate funds to personal uses and submitted false financial statements to regulators, shareholders, and creditors. During most of the time he was employed at SIG, petitioner was unaware of these activities. In early 1988, however, petitioner discovered respondents' unlawful conduct and contacted regulators concerning the financial statements. Respondents then orchestrated a scheme to remove petitioner from the company. They hired an insurance consultant to write a false report suggesting that petitioner had failed to perform his material duties. The day after this report was presented to the SIG board of directors, the board fired petitioner, relying on a clause in his contract providing for termination in the event of an "inability or substantial failure to perform [his] material duties." App. 104. Petitioner sued respondents, asserting, among other things, a civil cause of action under §1964(c).[4] In particular, petitioner claimed that respondents used or invested income derived from a pattern of racketeering activity to establish and operate an enterprise, in violation of §1962(a); acquired and maintained an interest in and control of their enterprise through a pattern of racketeering activity, in violation of §1962(b); engaged in the conduct of the enterprise's affairs through a pattern of racketeering activity, in violation of §1962(c); and, most importantly for present purposes, conspired to commit the aforementioned acts, in violation of §1962(d). With respect to this last claim,

[4] Petitioner's lawsuit was originally brought as a cross-claim in a shareholders' derivative suit filed against SIG officers and directors, including petitioner, in the United States District Court for the District of New Jersey. The New Jersey District Court severed petitioner's claims and transferred them to the Southern District of Florida.

petitioner's theory was that his injury was proximately caused by an overt act– namely, the termination of his employment– done in furtherance of respondents' conspiracy, and that §1964(c) therefore provided a cause of action. Respondents filed a motion for summary judgment, arguing that employees who are terminated for refusing to participate in RICO activities, or who threaten to report RICO activities, do not have standing to sue under RICO for damages from their loss of employment. The District Court agreed and dismissed petitioner's RICO conspiracy claim. The Court of Appeals affirmed, holding that a cause of action under §1964(c) for a violation of §1962(d) is not available to a person injured by an overt act in furtherance of a RICO conspiracy unless the overt act is an act of racketeering. 162 F. 3d 1090, 1098 (CA11 1998). Since the overt act that allegedly caused petitioner's injury was not an act of racketeering, see §1961(1), it could not support a civil cause of action. The court held, "RICO was enacted with an express target– racketeering activity– and only those injuries that are proximately caused by racketeering activity should be actionable under the statute." *Ibid.*[5]

We granted certiorari, 526 U. S. 1158 (1999), to resolve a conflict among the Courts of Appeals on the question whether a person injured by an overt act in furtherance of a conspiracy may assert a civil RICO conspiracy claim

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[5]Although petitioner alleged violations of §§1962(a), (b), and (c), the Court of Appeals concluded that he had presented no evidence of violations of subsections (a) and (b). It therefore treated each of petitioner's substantive RICO claims as alleging a violation of §1962(c). 162 F. 3d, at 1095, n. 8. The court held that petitioner did not present evidence regarding elements of his §1962(c) claims and therefore affirmed the District Court's order granting summary judgment for respondents with respect to those claims. *Id.*, at 1095–1098. Petitioner does not challenge the Court of Appeals' conclusion with respect to his claims under §§1962(a)–(c).

under §1964(c) for a violation of §1962(d) even if the overt act does not constitute "racketeering activity." The majority of the Circuits to consider this question have answered it in the negative. See, *e.g.*, *Bowman* v. *Western Auto Supply Co.*, 985 F. 2d 383, 388 (CA8), cert. denied, 508 U. S. 957 (1993); *Miranda* v. *Ponce Fed. Bank*, 948 F. 2d 41, 48 (CA1 1991); *Reddy* v. *Litton Indus., Inc.*, 912 F. 2d 291, 294–295 (CA9 1990), cert. denied, 502 U. S. 921 (1991); *Hecht* v. *Commerce Clearing House, Inc.*, 897 F. 2d 21, 25 (CA2 1990). Other Circuits have allowed RICO conspiracy claims where the overt act was—as in the instant case—merely the termination of employment, and was not, therefore, racketeering activity. See, *e.g.*, *Khurana* v. *Innovative Health Care Systems, Inc.*, 130 F. 3d 143, 153–154 (CA5 1997), vacated *sub nom. Teel* v. *Khurana*, 525 U. S. 979 (1998); *Schiffels* v. *Kemper Financial Services, Inc.*, 978 F. 2d 344, 348–349 (CA7 1992); *Shearin* v. *E. F. Hutton Group, Inc.*, 885 F. 2d 1162, 1168–1169 (CA3 1989).

II

This case turns on the combined effect of two provisions of RICO that, read in conjunction, provide a civil cause of action for conspiracy. Section 1964(c) states that a cause of action is available to anyone "injured . . . by reason of a violation of section 1962." Section 1962(d) makes it unlawful for a person "to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section." To determine what it means to be "injured . . . by reason of" a "conspir[acy]," we turn to the well-established common law of civil conspiracy. As we have said, when Congress uses language with a settled meaning at common law, Congress

> "presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it was taken and the meaning its use will convey to the judicial mind unless other-

> wise instructed. In such case, absence of contrary direction may be taken as satisfaction with widely accepted definitions, not as a departure from them." *Morissette* v. *United States*, 342 U. S. 246, 263 (1952).

See *Molzof* v. *United States*, 502 U. S. 301, 307 (1992) (quoting *Morissette*, *supra*, at 263); *NLRB* v. *Amax Coal Co.*, 453 U. S. 322, 329 (1981).[6]

By the time of RICO's enactment in 1970, it was widely accepted that a plaintiff could bring suit for civil conspiracy only if he had been injured by an act that was itself tortious. See, *e.g.*, 4 Restatement (Second) of Torts §876, Comment *b* (1977) ("The mere common plan, design or even express agreement is not enough for liability in itself, and there must be acts of a tortious character in carrying it into execution"); W. Prosser, Law of Torts §46, p. 293 (4th ed. 1971) ("It is only where means are employed, or purposes are accomplished, which are themselves tortious, that the conspirators who have not acted but have promoted the act will be held liable" (footnotes omitted)); *Satin* v. *Satin*, 69 App. Div. 2d 761, 762, 414 N. Y. S. 2d 570, (1979) (Memorandum Decision) ("There is no tort of civil conspiracy in and of itself. There must first be pleaded specific wrongful acts which might constitute an independent tort"); *Cohen* v. *Bowdoin*, 288 A. 2d 106, 110

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[6] Petitioner suggests that we should look to criminal, rather than civil, common-law principles to interpret the statute. We have turned to the common law of criminal conspiracy to define what constitutes a violation of §1962(d), see *Salinas* v. *United States*, 522 U. S. 52, 63–65 (1997), a mere violation being all that is necessary for criminal liability. This case, however, does not present simply the question of what constitutes a violation of §1962(d), but rather the meaning of a civil cause of action for private injury by reason of such a violation. In other words, our task is to interpret §§1964(c) and 1962(d) in conjunction, rather than §1962(d) standing alone. The obvious source in the common law for the combined meaning of these provisions is the law of civil conspiracy.

(Me. 1972) ("[C]onspiracy' fails as the basis for the imposition of civil liability absent the *actual commission* of some *independently recognized tort;* and when such separate tort has been committed, it is *that tort*, and not the fact of combination, which is the foundation of the civil liability"); *Earp* v. *Detroit*, 16 Mich. App. 271, 275, 167 N. W. 2d 841, 845 (1969) ("Recovery may be had from parties on the theory of concerted action as long as the elements of the separate and actionable tort are properly proved"); *Mills* v. *Hansell*, 378 F. 2d 53, (CA5 1967) *(per curiam)* (affirming dismissal of conspiracy to defraud claim because no defendant committed an actionable tort); *J. & C. Ornamental Iron Co.* v. *Watkins*, 114 Ga. App. 688, 691, 152 S. E. 2d 613, 615 (1966) ("[The plaintiff] must allege all the elements of a cause of action for the tort the same as would be required if there were no allegation of a conspiracy"); *Lesperance* v. *North American Aviation, Inc.*, 217 Cal. App. 2d 336, 345 31 Cal. Rptr. 873, 878 (1963) ("[C]onspiracy cannot be made the subject of a civil action unless something is done which without the conspiracy would give a right of action" (internal quotation marks omitted)); *Middlesex Concrete Products & Excavating Corp.* v. *Carteret Indus. Assn.*, 37 N. J. 507, 516, 181 A. 2d 774, 779 (1962) ("[A] conspiracy cannot be made the subject of a civil action unless something has been done which, absent the conspiracy, would give a right of action"); *Chapman* v. *Pollock*, 148 F. Supp. 769, 772 (WD Mo. 1957) (holding that a plaintiff who charged the defendants with "conspiring to perpetrate an unlawful purpose" could not recover because the defendants committed no unlawful act); *Olmsted, Inc.*, v. *Maryland Casualty Co.*, 218 Iowa 997, 998, 253 N. W. 804 (1934) ("[A] conspiracy cannot be the subject of a civil action unless something is done pursuant to it which, without the conspiracy, would give a right of action"); *Adler* v. *Fenton*, 24 How. 407, 410 (1861) ("[T]he act must be tortious, and there must be

consequent damage").

Consistent with this principle, it was sometimes said that a conspiracy claim was not an independent cause of action, but was only the mechanism for subjecting co-conspirators to liability when one of their member committed a tortious act. *Royster* v. *Baker*, 365 S. W. 2d 496, 499, 500 (Mo. 1963) ("[A]n alleged conspiracy by or agreement between the defendants is not of itself actionable. Some wrongful act to the plaintiff's damage must have been done by one or more of the defendants, and the fact of a conspiracy merely bears on the liability of the various defendants as joint tort-feasors"). See *Halberstam* v. *Welch*, 705 F. 2d 472, 479 (CADC 1983) ("Since liability for civil conspiracy depends on performance of some underlying tortious act, the conspiracy is not independently actionable; rather, it is a means for establishing vicarious liability for the underlying tort").[7]

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[7] JUSTICE STEVENS quotes from some of the cases we have cited to suggest that the common law allowed recovery from harm caused by any overt act in furtherance of the conspiracy. See *post*, at 4, n. 4 (dissenting opinion). However, his quotations omit pertinent language. When read in context, it is clear that these passages refer to harm, not from any overt act, but only from overt acts that are themselves tortious. Compare *ibid*, with *Adler* v. *Fenton*, 24 How. 407, 410 (1861) ("[I]t must be shown that the defendants have done some wrong, that is, have violated some right of theirs . . . . [I]n these cases the act must be tortious"); *Royster* v. *Baker*, 365 S. W. 2d 496, 499 (Mo. 1963) ("Strictly speaking, there has been no distinct form of writ or action of conspiracy; but the action sounds in tort, and is of the nature of an action on the case upon the wrong done under the conspiracy alleged. The gist of the action is not the conspiracy, but the wrong done by acts in furtherance of the conspiracy" (citations and internal quotation marks omitted)); *Lesperance* v. *North American Aviation, Inc.*, 217 Cal. App. 2d 336, 345, 31 Cal. Rptr. 873, 878 (1963) ("'It is well settled that a conspiracy cannot be made the subject of a civil action unless something is done which without the conspiracy would give a right of action'"); *Earp* v. *Detroit*, 16 Mich. App. 271, 275, 167 N. W. 2d 841, 845 (1969) ("There is no civil action for conspiracy alone. It must be coupled with the

The principle that a civil conspiracy plaintiff must claim injury from an act of a tortious character was so widely accepted at the time of RICO's adoption as to be incorporated in the common understanding of "civil conspiracy." See Ballentine's Law Dictionary 252 (3d ed. 1969) ("It is the civil wrong resulting in damage, and not the conspiracy which constitutes the cause of action"); Black's Law Dictionary 383 (4th ed. 1968) ("[W]here, in carrying out the design of the conspirators, overt acts are done causing *legal* damage, the person injured has a right of action" (emphasis added)). We presume, therefore, that when Congress established in RICO a civil cause of action for a person "injured . . . by reason of" a "conspir[acy]," it meant to adopt these well-established common-law civil conspiracy principles.

JUSTICE STEVENS does not challenge our view that Congress meant to incorporate common-law principles when it adopted RICO. Nor does he attempt to make an affirmative case from the common law for his reading of the statute by pointing to a case in which there was (a) an illegal agreement; (b) injury proximately caused to the plaintiff by a nontortious overt act in furtherance of the agreement; and (c) recovery by the plaintiff. See *post*, at 2. Instead, he argues only that courts, authoritative commentators, and even dictionaries repeatedly articulated a rule with no meaning or application.[8] We find this argu-

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commission of acts which damaged the plaintiff. Recovery may be had from parties on the theory of concerted action as long as the elements of the separate and actionable tort are properly proved" (citation omitted); *Halberstam* v. *Welch*, 705 F. 2d 472, 479 (CADC 1983) (stating that civil conspiracy requires "an overt tortious act in furtherance of the agreement that causes injury. . . . Since liability for civil conspiracy depends on performance of some underlying tortious act, the conspiracy is not independently actionable; rather, it is a means for establishing vicarious liability for the underlying tort").

[8]We disagree, moreover, with JUSTICE STEVENS' interpretation of the

ment to be implausible and, accordingly, understand RICO to adopt the common-law principles we have cited. Interpreting the statute in a way that is most consistent with these principles, we conclude that injury caused by an overt act that is not an act of racketeering or otherwise wrongful under RICO, see n. 7, *supra*, is not sufficient to give rise to a cause of action under §1964(c) for a violation of §1962(d). As at common law, a civil conspiracy plaintiff

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grounds for decision in some of the cases we have cited. For example, JUSTICE STEVENS reads *Mills* v. *Hansell*, 378 F. 2d 53 (CA5 1967) *(per curiam)*, and *Chapman* v. *Pollock*, 148 F. Supp. 769, 772 (WD Mo. 1957), to deny recovery for conspiracy because the defendants had not entered into an unlawful agreement. See *post*, at 3. We think the opinions, and the language cited from these opinions by JUSTICE STEVENS, make clear that recovery was denied because the defendants had committed no actionable tort, regardless of whether they agreed to commit any such act. See *ibid.* Likewise, JUSTICE STEVENS reads *J. & C. Ornamental Iron Co.* v. *Watkins*, 114 Ga. App. 688, 691, 152 S. E. 2d 613, 615 (1966), to deny recovery because the plaintiff had suffered no injury. However, in that case, the plaintiff's conspiracy claim was predicated on several alleged torts including fraud, trespass, and malicious interference. *Ibid.* While the court held that the plaintiff could not recover for conspiracy to maliciously interfere because he had suffered no injury, the plaintiff's remaining conspiracy allegations were insufficient because the plaintiff did not allege "all the elements of a cause of action for the tort the same as would be required if there were no allegation of a conspiracy." *Ibid.* Further, JUSTICE STEVENS chides us for citing cases in which the court allowed recovery. But in two of these cases the court explicitly grounded its decision on the fact that the plaintiff had identified an actionable independent tort on which the conspiracy claim could be based. See *Cohen* v. *Bowdoin*, 288 A. 2d 106, 110 (Me. 1972) ("[I]f [the plaintiff's conspiracy claim] is to be upheld as stating a claim upon which relief can be granted, it must be on the ground that the complaint sufficiently alleges the actual commission of the separate and independent tort of defamation against the plaintiff"); *Middlesex Concrete Products & Excavating Corp.* v. *Carteret Indus. Assn.*, 37 N. J. 507, 516, 181 A. 2d 774, 779 (1962) (holding that the plaintiffs stated a claim for conspiracy because they alleged an actionable tort). In short, we think that there is ample evidence of the common-law rule we have cited.

cannot bring suit under RICO based on injury caused by *any* act in furtherance of a conspiracy that might have caused the plaintiff injury. Rather, consistency with the common law requires that a RICO conspiracy plaintiff allege injury from an act that is analogous to an "ac[t] of a tortious character," see 4 Restatement (Second) of Torts §876, Comment *b*, meaning an act that is independently wrongful under RICO. The specific type of act that is analogous to an act of a tortious character may depend on the underlying substantive violation the defendant is alleged to have committed.[9] However, respondents' alleged overt act in furtherance of their conspiracy is not independently wrongful under any substantive provision of the statute. Injury caused by such an act is not, therefore, sufficient to give rise to a cause of action under §1964(c).[10]

Petitioner challenges this view of the statute under the longstanding canon of statutory construction that terms in

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[9] For example, most courts of appeals have adopted the so-called investment injury rule, which requires that a plaintiff suing for a violation of §1962(a) allege injury from the defendant's "use or invest[ment]" of income derived from racketeering activity, see §1962(a). See, *e.g.*, *Crowe* v. *Henry*, 43 F. 3d 198, 205 (CA5 1995); *Vemco, Inc.* v. *Camardella*, 23 F. 3d 129, 132 (CA6) (collecting cases), cert. denied, 513 U. S. 1017 (1994). Although we express no view on this issue, arguably a plaintiff suing for a violation of §1962(d) based on an agreement to violate §1962(a) is required to allege injury from the "use or invest[ment]" of illicit proceeds.

[10] Respondents argue that a §1962(d) claim must be predicated on an *actionable* violation of §§1962(a)–(c). However, the merit of this view is a different (albeit related) issue from the one on which we granted certiorari, namely, whether a plaintiff can bring a §1962(d) claim for injury flowing from an overt act that is not an act of racketeering. Therefore, contrary to JUSTICE STEVENS' suggestion, see *post*, at 5–6, we do not resolve whether a plaintiff suing under §1964(c) for a RICO conspiracy must allege an actionable violation under §§1962(a)–(c), or whether it is sufficient for the plaintiff to allege an agreement to complete a substantive violation and the commission of at least one act of racketeering that caused him injury.

a statute should not be construed so as to render any provision of that statute meaningless or superfluous. He asserts that under our view of the statute, any person who had a claim for a violation of §1962(d) would necessarily have a claim for a violation of §1962(a), (b), or (c). However, contrary to petitioner's assertions, our interpretation of §1962(d) does not render it mere surplusage. Under our interpretation, a plaintiff could, through a §1964(c) suit for a violation of §1962(d), sue co-conspirators who might not themselves have violated one of the substantive provisions of §1962.

III

We conclude, therefore, that a person may not bring suit under §1964(c) predicated on a violation of §1962(d) for injuries caused by an overt act that is not an act of racketeering or otherwise unlawful under the statute.

The judgment of the Court of Appeals is affirmed.

It is so ordered.