SUPREME COURT OF THE UNITED STATES

No. 97–6270

GERALD R. CARON, PETITIONER *v.* UNITED STATES

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

[June 22, 1998]

JUSTICE THOMAS, with whom JUSTICE SCALIA and JUSTICE SOUTER join, dissenting.

The only limitation that Massachusetts law imposed on petitioner's possession of firearms was that he could not carry handguns outside his home or business. See *ante*, at 3. In my view, Massachusetts law did not "expressly provid[e]" that petitioner "may not . . . possess . . . firearms," 18 U. S. C. §921(a)(20), and thus petitioner cannot be sentenced as an armed career criminal under 18 U. S. C. §924(e). Because the Court holds to the contrary, I respectfully dissent.

Petitioner's prior Massachusetts convictions qualify as violent felonies for purposes of §924(e) only if the "restoration of [his] civil rights" by operation of Massachusetts law "expressly provide[d] that [petitioner] may not . . . possess . . . firearms." 18 U. S. C. §921(a)(20). In 1994, Massachusetts law did not expressly provide that petitioner could not possess firearms. To the contrary: Petitioner was permitted by Massachusetts law to possess shotguns, rifles, and handguns. See *ante*, at 3; Mass. Gen. Stat. §§140:123, 140:129B, 140:129C. (1998). Indeed, Massachusetts provided petitioner with a firearm identification

card that enabled him to possess such firearms.[*] The only restriction Massachusetts law placed on petitioner's possession of firearms was that he could not carry handguns outside his home or business. See §269:10(A). By prohibiting petitioner from possessing only certain firearms (handguns) in only certain places (outside his home or office), Massachusetts law did not expressly provide that petitioner could not possess firearms.

The plain meaning of §921(a)(20) thus resolves this case. The Court, however, rejects this plain meaning on the basis of "a likely, and rational, congressional policy" of prohibiting firearms possession by all ex-felons whose ability to possess certain firearms is in any way restricted by state law. *Ante*, at 7. According to the Court, Congress could not have intended the "bizarre result" that a conviction would not count as a violent felony if a State only partially restricts the possession of firearms by the ex-felon. But this would not be a bizarre result at all. Under §921(a)(20), state law limitations on firearms possession are only relevant once it has been established that an ex-felon's other civil rights, such as the right to vote, the right to seek and to hold public office, and the right to serve on a jury, have been restored. See 77 F. 3d 1, 2 (CA1 1996). In restoring those rights, the State has presumably deemed such ex-felons worthy of participating in civic life. Once a State makes such a decision, it is entirely rational (and certainly not bizarre) for Congress to authorize the increased sentences in §924(e) only when the State additionally prohibits those ex-felons from possessing firearms altogether.

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[*]Petitioner was "entitled to" a firearm identification card five years after his release from prison. See Mass. Gen. Stat. §140:129B; see also *Commonwealth* v. *Landry*, 6 Mass. App. 404, 406 376 N. E. 2d 1243, 1245, (1978) (firearm identification card can be obtained as a "matter of right").

Moreover, as the Court concedes, its own interpretation creates "incongruities." *Ante*, at 7. Under the statute, whether a prior state conviction qualifies as a violent felony conviction under §924(e) turns entirely on state law. Given the primacy of state law in the statutory scheme, it is bizarre to hold that the *legal* possession of firearms under state law subjects a person to a sentence enhancement under federal law. That, however, is precisely the conclusion the Court reaches in this case. It is simply not true, as the Court reasons, that federal law "must reach primary conduct not covered by state law." *Ante*, at 7. It is entirely plausible that Congress simply intended to create stiffer penalties for weapons possessions that are already illegal under state law. And such a purpose is consistent with the statutory direction that state law controls what constitutes a conviction for a violent felony.

I believe that the plain meaning of the statute is that Massachusetts did not "expressly provid[e]" that petitioner "may not . . . possess . . . firearms." At the very least, this interpretation is a plausible one. Indeed, both the Government and the Court concede as much. See Brief for United States 16 ("grammatically possible" to read statute to say that its condition is not satisfied if the State does permit its felons to possess some firearms); *ante*, at 8 (this "reading is not plausible enough"). Accordingly, it is far from clear under the statute that a prior state conviction counts as a violent felony conviction for purposes of §924(e) just because the State imposes some restriction, no matter how slight, on firearms possession by ex-felons. The rule of lenity must therefore apply: "[T]he Court will not interpret a federal criminal statute so as to increase the penalty that it places on an individual when such an interpretation can be based on no more than a guess as to what Congress intended." *Ladner* v. *United States*, 358 U. S. 169, 178 (1958). Ex-felons cannot be expected to realize that a federal statute that explicitly relies on state law

prohibits behavior that state law allows.

The Court rejects the rule of lenity in this case because it thinks the purported statutory ambiguity rests on a "grammatical possibility" and "an implausible reading of the congressional purpose." *Ante*, at 8. But the alleged ambiguity does not result from a mere grammatical possibility; it exists because of an interpretation that, for the reasons I have described, both accords with a natural reading of the statutory language and is consistent with the statutory purpose.

The plain meaning of §921(a)(20) is that Massachusetts law did not "expressly provid[e] that [petitioner] may not . . . possess . . . firearms." This interpretation is, at the very least, a plausible one, and the rule of lenity must apply. I would therefore reverse the judgment below.