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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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UNITED STATES *v.* HAYES

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

No. 07–608. Argued November 10, 2008—Decided February 24, 2009

In 1996, Congress extended the federal Gun Control Act of 1968's prohibition on possession of a firearm by convicted felons to include persons convicted of "a misdemeanor crime of domestic violence," 18 U. S. C. §922(g)(9). Responding to a 911 call reporting domestic violence, police officers discovered a rifle in respondent Hayes's home. Based on this and other evidence, Hayes was charged under §§922(g)(9) and 924(a)(2) with possessing firearms after having been convicted of a misdemeanor crime of domestic violence. The indictment identified as the predicate misdemeanor offense Hayes's 1994 conviction for battery against his then-wife, in violation of West Virginia law. Hayes moved to dismiss the indictment on the ground that his 1994 conviction did not qualify as a predicate offense under §922(g)(9) because West Virginia's generic battery law did not designate a domestic relationship between aggressor and victim as an element of the offense. When the District Court denied the motion, Hayes entered a conditional guilty plea and appealed. The Fourth Circuit reversed, holding that a §922(g)(9) predicate offense must have as an element a domestic relationship between offender and victim.

Held: A domestic relationship, although it must be established beyond a reasonable doubt in a §922(g)(9) firearms possession prosecution, need not be a defining element of the predicate offense. Pp. 4–13.

(a) The definition of "misdemeanor crime of domestic violence," contained in §921(a)(33)(A), imposes two requirements. First, the crime must have, "as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon." §921(a)(33)(A)(ii). Second, it must be "committed by" a person who has a specified domestic relationship with the victim. *Ibid.* The definition does not, however,

require the predicate-offense statute to include, as an element, the existence of that domestic relationship. Instead, it suffices for the Government to charge and prove a prior conviction that was, in fact, for "an offense . . . committed by" the defendant against a spouse or other domestic victim. Pp. 4–9.

(1) As an initial matter, §921(a)(33)(A)'s use of the singular word "element" suggests that Congress intended to describe only one required element, the use of force. Had Congress also meant to make the specified relationship a predicate-offense element, it likely would have used the plural "elements," as it has done in other offense-defining provisions. See, *e.g.,* 18 U. S. C. §3559(c)(2)(A). Treating the specified relationship as a predicate-offense element is also awkward as a matter of syntax. It requires the reader to regard "the use or attempted use of physical force, or the threatened use of a deadly weapon" as an expression modified by the relative clause "committed by." It is more natural, however, to say a person "commit[s]" an "offense" than to say one "commit[s]" a "use." Pp. 5–6.

(2) The Fourth Circuit's textual arguments to the contrary are unpersuasive. First, that court noted, clause (ii) is separated from clause (i)—which defines "misdemeanor"—by a line break and a semicolon, while clause (ii)'s components—force and domestic relationship—are joined in an unbroken word flow. Such less-than-meticulous drafting hardly shows that Congress meant to exclude from §922(g)(9)'s prohibition domestic abusers convicted under generic assault or battery laws. As structured, §921(a)(33)(A) defines "misdemeanor crime of domestic violence" by addressing in clause (i) the meaning of "misdemeanor," and in clause (ii) "crime of domestic violence." Because a "crime of domestic violence" involves both a use of force and a domestic relationship, joining these features together in clause (ii) would make sense even if Congress had no design to confine laws qualifying under §921(a)(33)(A) to those designating as elements both use of force and domestic relationship. A related statutory provision, 25 U. S. C. §2803(3)(C), indicates that Congress did not ascribe substantive significance to the placement of line breaks and semicolons in 18 U. S. C. §921(a)(33)(A). Second, the Fourth Circuit relied on the "rule of the last antecedent" to read "committed by" as modifying the immediately preceding use-of-force phrase rather than the earlier word "offense." The last-antecedent rule, however, "is not an absolute and can assuredly be overcome by other indicia of meaning." *Barnhart* v. *Thomas*, 540 U. S. 20, 26. Applying the rule here would require the Court to accept the unlikely premises that Congress employed the singular "element" to encompass two distinct concepts, and that it adopted the awkward construction "commi[t]" a use. The rule, moreover, would render the

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word "committed" superfluous, for Congress could have conveyed the same meaning by referring simply to "the use . . . of physical force . . . by a current or former spouse . . . ." Pp. 6–9.

(b) Practical considerations strongly support this Court's reading of §921(a)(33)(A). By extending the federal firearm prohibition to persons convicted of misdemeanor crimes of domestic violence, §922(g)(9)'s proponents sought to close a loophole: Existing felon-in-possession laws often failed to keep firearms out of the hands of domestic abusers, for such offenders generally were not charged with, or convicted of, felonies. Construing §922(g)(9) to exclude the domestic abuser convicted under a generic use-of-force statute would frustrate Congress' manifest purpose. The statute would have been a dead letter in some two-thirds of the States because, in 1996, only about one-third of them had criminal statutes specifically proscribing *domestic* violence. Hayes argues that the measure that became §§922(g)(9) and 921(a)(33)(A), though it initially may have had a broadly remedial purpose, was revised and narrowed during the legislative process, but his argument is not corroborated by the revisions he identifies. Indeed, §922(g)(9)'s Senate sponsor observed that a domestic relationship often would not be a designated element of the predicate offense. Such remarks are "not controlling," *Consumer Product Safety Comm'n* v. *GTE Sylvania, Inc.*, 447 U. S. 102, 118, but the legislative record is otherwise silent. Pp. 10–12.

(c) The rule of lenity, on which Hayes also relies, applies only when a statute is ambiguous. Section 921(a)(33)(A)'s definition, though not a model of the careful drafter's art, is also not "grievous[ly] ambigu[ous]." *Huddleston* v. *United States*, 415 U. S. 814, 831. The text, context, purpose, and what little drafting history there is all point in the same direction: Congress defined "misdemeanor crime of domestic violence" to include an offense "committed by" a person who had a specified domestic relationship with the victim, whether or not the misdemeanor statute itself designates the domestic relationship as an element of the crime. Pp. 12–13.

482 F. 3d 749, reversed and remanded.

GINSBURG, J., delivered the opinion of the Court, in which STEVENS, KENNEDY, SOUTER, BREYER, and ALITO, JJ., joined, and in which THOMAS, J., joined as to all but Part III. ROBERTS, C. J., filed a dissenting opinion, in which SCALIA, J., joined.