

No. 24-____

In the
Supreme Court of the United States

Germaine Ramsey,

Petitioner,

v.

United States of America,

Respondent.

On Petition for a Writ of Certiorari to
The United States Court of Appeals
For the Second Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the Court should GVR in light of *Thompson v. United States*, 604 U.S. ___, 145 S. Ct. 821 (2025).

TABLE OF CONTENTS

	Page
OPINION BELOW.....	1
JURISDICTION.....	1
RELEVANT PROVISION	1
INTRODUCTION	1
STATEMENT OF THE CASE.....	3
REASONS FOR GRANTING THE PETITION.....	5
A GVR is Warranted Given <i>Thompson</i>	5
CONCLUSION.....	8

TABLE OF AUTHORITIES

Page(s)

Cases

<i>Flowers v. Mississippi</i> , 136 S. Ct. 2157 (2016).....	1
<i>Thompson v. United States</i> , 604 U.S. ___, 145 S. Ct. 821 (Mar. 21, 2025)	<i>passim</i>

Statutes

18 U.S.C. § 1001(a)(2)	1, 5
18 U.S.C. § 1014.....	2, 5

Other Authorities

2A Fed. Jury Prac. & Instr. § 40:08 (6th ed.).....	7
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OPINION BELOW

The decision of the United States Court of Appeals for the Second Circuit is unreported and appears at Petitioner’s Appendix (“Pet. App.”) 1a-8a.

JURISDICTION

The District Court had jurisdiction under 18 U.S.C. § 3231; the Second Circuit did under 28 U.S.C. § 1291; and this Court does under § 1254(1).

RELEVANT PROVISION

18 U.S.C. § 1001(a)(2) is violated if someone, “in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully . . . makes any materially false, fictitious, or fraudulent statement or representation.”

INTRODUCTION

“This Court often ‘GVRs’ a case – that is, grants the petition for a writ of certiorari, vacates the decision below, and remands for reconsideration by the lower court – when we believe that the lower court should give further thought to its decision in light of an opinion of this Court that (1) came after the decision under review and (2) changed or clarified the governing legal principles in a way that could possibly alter the decision.” *Flowers v. Mississippi*, 136 S. Ct. 2157, 2157 (2016) (Alito, J., dissenting). That describes this case.

A jury convicted Petitioner Germaine Ramsey of making a false statement in violation of 18 U.S.C. § 1001(a)(2). But the statement the government offered as proof of guilt was a truthful one. The Second Circuit affirmed anyway, ruling that,

when Ramsey made a truthful statement “without providing” more information, “she lied.” Pet. App. 8a.

This ruling warrants reconsideration given *Thompson*, which was decided a month after the Circuit denied rehearing, and which rejected the theory the Circuit used to affirm Ramsey’s § 1001(a)(2) conviction.

Thompson concerned § 1014, which, like § 1001(a)(2), criminalizes making a “false statement or report.” The Court, explaining that “false and misleading are two different things,” that a “misleading statement can be true,” and that § 1014 “does not use the word ‘misleading,’” 145 S. Ct. at 826, held that “Section 1014 does not criminalize statements that are misleading but true. Under the statute, it is not enough that a statement is misleading. It must be ‘false.’” *Id.* at 829.

Of special relevance here, if an “omission renders a statement misleading, § 1014 still does not cover that statement unless it can be characterized as ‘false’ and not ‘true.’ A statement that is true but misleading does not fit the bill.” *Id.* at 828.

At worst, the truthful statement Ramsey made was misleading. Yet the Circuit affirmed her conviction on the theory that, by making that truthful statement “without providing” more information, “she lied.” Pet. App. 8a.

This Court squarely rejected that theory in *Thompson*: a “statement that is true but misleading,” because it omits additional information, “does not fit the bill” for conviction on a “false statement” charge. 145 S. Ct. at 828.

A GVR is warranted.

STATEMENT OF THE CASE

1. Ramsey, then a 63-year-old who had worked for the Postal Service for over 30 years, was accused of helping her lover steal from her post office's vault in December 2019. She went to trial, where a postal inspector testified Ramsey admitted giving her lover the information he needed to steal \$7,781 from the vault.

Kept from the jury was the fact that Ramsey explained she helped her lover because he "became angry and demanded information from her." Pet. App. 17a. Her lover, she said, "is an abusive person, prone to 'rages,'" who had "put his hands on her in the past." *Id.* And when she learned he'd actually stolen the money, she "wanted to tell him to return [it]" but was "too terrified to confront him." *Id.*

Not hearing this, the jury found her guilty of conspiring to steal the money and aiding its theft.

It also found Ramsey "falsely stated," in violation of § 1001(a)(2), that she "entered the vault at the Post Office on the morning of December 22, 2019 only to return a key to the Post Office, when, as she then and there well knew and believed, she entered the vault at the Post Office on the morning of December 22, 2019 to check on the contents of a safe drawer." Pet. App. 53a.

But the government proffered no evidence of Ramsey ever saying she entered the vault "only to return a key." Rather, it pointed the jury to this testimony from a postal inspector as proof of guilt:

Q. Now, before you showed the defendant video, did you discuss with her whether she returned to the vault a second time on December 22nd?

A. Yes.

Q. What did she tell you?

A. *She said that she returned the keys*, but we had – she went into the vault, I asked – when I asked her, she initially said she didn’t recall closing the vault door when she was in there.

Id. at 18a (emphasis added).

Ramsey’s saying “she returned the keys” was true – she did return them – and the government offered no evidence of her ever saying, as the indictment alleged, that she entered the vault “only to return a key.” *Id.* at 46a.

The jury still found Ramsey guilty of making that statement— despite her never making it.

2. The Second Circuit affirmed. It reasoned that, “when Ramsey stated that she entered the vault to return the keys, *without providing any other reasons for doing so*, she lied and concealed her true reason for entering the vault.” *Id.* at 8a (emphasis added). The “government was not required to prove that Ramsey made th[e] statement” the indictment alleged. *Id.* When “asked why she entered the vault, Ramsey gave only the explanation of returning the key.” *Id.* By “providing only this reason, Ramsey concealed her true reason for entering the vault.” *Id.*

Notably, the government made none of these arguments in urging conviction. Its claim to the jury was that Ramsey did say, as the indictment alleged, “she only went into the vault to return the keys.” *Id.* at 49a. Ramsey said “she had only gone into the vault to return the keys.” *Id.* This “statement[] w[as] false.” *Id.* It “wasn’t an accident when she told them that she was just returning the keys.” *Id.* at 50a.

As discussed, however, the government proffered no evidence of Ramsey ever saying she entered the vault “only to return a key.”

The Circuit affirmed anyway.

3. Rehearing was denied on February 26, 2025. *See id.* at 9a.

REASONS FOR GRANTING THE PETITION

A GVR is Warranted Given *Thompson*

In *Thompson*, which was decided March 21, 2025, this Court rejected the theory the Second Circuit used to affirm Ramsey’s conviction.

A “false” statement violates both § 1001(a)(2) and § 1014. Section 1001(a)(2) also reaches a “fictitious” or “fraudulent” statement, but Ramsey’s jury did not find she made such a statement. The indictment alleged “Making a False Statement,” Pet. App. 46a, that’s what the government argued, *see id.* at 49a-50a, and the jury found she “falsely stated she entered the vault . . . only to return a key.” *Id.* at 53a.

It’s undisputed, however, that Ramsey never said she entered the vault “only to return a key.” The Circuit affirmed her conviction on the theory that, by truthfully saying “she entered the vault to return the keys, *without providing any other reasons for doing so*, she lied.” *Id.* at 8a (emphasis added).

Such reasoning was rejected in *Thompson*.

Thompson was convicted of making a false statement when he said he had borrowed “‘\$110,000’ from [a] bank” while omitting the fact that he had “loans totaling \$219,000 from the same bank.” 145 S. Ct. at 824. But his statement was literally true: “he had in fact taken out a loan for \$110,000 just as he said.” *Id.*

Though Thompson’s saying he borrowed \$110,000, while failing to mention the other \$109,000, might have been misleading, “Section 1014 does not criminalize statements that are misleading but true.” *Id.* at 829. The statement “must be ‘false.’” *Id.*

Indeed, if an “omission renders a statement misleading, § 1014 still does not cover that statement unless it can be characterized as ‘false’ and not ‘true.’ A statement that is true but misleading does not fit the bill.” *Id.* at 828.

So too here. The indictment alleged, and the jury found, a “false” statement in violation of § 1001(a)(2). Pet. App. 46a, 53a. Yet the actual statement Ramsey made was not false: she “returned the keys,” *id.* at 18a, “just as [s]he said” to the postal inspector. *Thompson*, 145 S. Ct. at 824.

Importantly, moreover, the inspector did not testify to asking Ramsey *why* she entered the vault. The inspector simply reported that, when she “discuss[ed] with [Ramsey] *whether* she returned to the vault,” Ramsey “said that she returned the keys.” Pet. App. 18a (emphasis added). That was true. And Ramsey never said she entered “only to return a key.”

At worst, her statement was misleading. Yet § 1001(a)(2) “does not use the word ‘misleading.’” *Thompson*, 145 S. Ct. at 826. It does use the word “fraudulent” but, as noted, that is not what was charged or found here. Nor could Ramsey’s jury have properly found her statement “fraudulent.” As the judge instructed the jurors, a “statement or representation is fraudulent if it was *untrue* when made and was made or caused to be made with the intent to deceive.” Pet. App. 51a (emphasis

added). *See also* 2A Fed. Jury Prac. & Instr. § 40:08 (6th ed.) (“A fraudulent statement” under § 1001(a)(2) “is an assertion which is known to be untrue and which is made or used with the intent to deceive.”). Ramsey’s saying she “returned the keys,” Pet. App. 18a, was not “untrue” and so was not “fraudulent.” And, again, the jury did not find a fraudulent statement. It found Ramsey “falsely stated she entered the vault . . . only to return a key.” *Id.* at 53a. Also again, however, there is no evidence she ever said that.

The Circuit faulted Ramsey for not “providing any other reasons” for entering the vault. *Id.* at 8a. But even if that “omission” rendered her truthful statement about having returned the keys “misleading,” conviction under the charge here required her statement to be “false.” *Thompson*, 145 S. Ct. at 828. Yet her saying “she returned the keys” was not false. Pet. App. 18a. She did indeed return them, “just as [s]he said.” *Thompson*, 145 S. Ct. at 824.

The Circuit’s decision to nonetheless affirm her false-statement conviction warrants reassessment now that this Court has clarified that a “statement that is true but misleading,” because it omits additional information, “does not fit the bill” for conviction on a “false statement” charge. *Id.* at 828.

CONCLUSION

The petition for a writ of certiorari should be granted, the judgment below should be vacated, and the case should be remanded for further consideration in light of *Thompson*.

Respectfully submitted,

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