

No. 24-7292

IN THE SUPREME COURT OF THE UNITED STATES

GERMAINE RAMSEY, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

D. JOHN SAUER
Solicitor General
Counsel of Record
Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

IN THE SUPREME COURT OF THE UNITED STATES

No. 24-7292

GERMAINE RAMSEY, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

Petitioner contends (Pet. 5-7) that her conviction for making a materially false, fictitious, or fraudulent statement or representation, in violation of 18 U.S.C. 1001(a)(2), is infirm in light of Thompson v. United States, 145 S. Ct. 821 (2025). In Thompson, this Court held that the category of "false statement[s]" punishable under 18 U.S.C. 1014, which prohibits such statements to influence an action of (inter alia) the Federal Deposit Insurance Corporation, is limited to statements that are "not true" rather than those that are "misleading" but "not false." Id. at 824, 829. This Court further clarified that "at least some context is relevant to determining whether a statement is false under

[Section] 1014." Id. at 828; see id. at 829 (Alito, J., concurring) ("[I]n considering whether a statement is 'false,' judges and juries must view the statement in the 'context in which it is made.'") (citation omitted). Petitioner asserts (Pet. 1-2) that the statement underlying her Section 1001(a)(2) conviction was "a truthful one" and argues that this Court should grant the petition for a writ of certiorari, vacate the decision of the court of appeals, and remand for further proceedings (GVR) so that the court below may consider Thompson's application to her case. Even assuming Thompson's analysis of Section 1014 applies to convictions under Section 1001, that course is not warranted here.

1. Petitioner is incorrect in stating (Pet. 2, 5, 7) that she was convicted based on a truthful, if misleading, statement. Petitioner and her coconspirator "conspired to steal, and did steal, remittance funds totaling \$7,781 from a safe in a vault at the Metro Station post office in Brooklyn, New York." Pet. App. 2a. During subsequent interviews with law enforcement about the missing funds, petitioner at first "denied involvement in the theft" and claimed she had entered the vault on the day of the theft "to return a set of Metro Station keys." Id. at 2a-3a. After further questioning, however, petitioner "admitted she had lied during [those] interviews." Id. at 3a.

This record confirms that petitioner was convicted of making a statement that was "false" -- i.e., "not true." Thompson, 145 S. Ct. at 826. The indictment charged petitioner with falsely

stating 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." Pet. App. 46a. The district court instructed the jury that it could convict only upon a finding that petitioner's statement was "untrue when made."¹ And, in a special verdict, the jury found that petitioner "falsely stated [that] she entered the vault at the Post Office on the morning of December 22, 2019 only to return a key," when in reality "she entered the vault * * * to check on the contents of a safe drawer inside the vault at the Post Office." Id. at 53a. Thus, the jury necessarily found that petitioner's statement was "untrue." Id. at 51a.

2. Petitioner's suggestion (Pet. 5-6) that this Court enter a GVR order to permit further review of the evidence supporting the jury's verdict lacks merit. The court of appeals correctly understood that "the completeness and accuracy of 'a responsive statement must be judged according to common sense standards.'" Pet. App. 8a (citation omitted). The recognition that a statement may be false in context is consistent with this Court's discussion of falsity in Thompson. See pp. 1-2, supra. And relying on that contextual framework, the court of appeals found sufficient evidence to support the jury's determination that petitioner had

¹ See Pet. App. 51a ("A statement is false or fictitious if it was untrue when made and known at the time to be untrue by the person making it or causing it to be made. 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 the Government agency to which it was submitted.").

"lied." Pet. App. 7a-8a. The court of appeals thus already applied the correct definition of falsity in reviewing petitioner's sufficiency claim.

3. Petitioner repeatedly asserts (Pet. 4-5, 7) that "no evidence" supported the jury's finding that she "falsely stated that she entered the vault at the Post Office on the morning of December 22, 2019 only to return a key," Pet. App. 53a. That contention amounts to a disagreement with the lower courts' assessment of the trial evidence supporting her conviction. This Court, however, ordinarily does not review such factbound contentions. See Sup. Ct. R. 10 ("A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law."); United States v. Johnston, 268 U.S. 220, 227 (1925) ("We do not grant a certiorari to review evidence and discuss specific facts."). Adherence to that ordinary practice is especially warranted here because both the court of appeals and the district court concurred that the government had introduced sufficient evidence to support the jury's finding. See Graver Tank & Mfg. Co. v. Linde Air Prods. Co., 336 U.S. 271, 275 (1949) ("A court of law, such as this Court is, rather than a court for correction of errors in fact finding, cannot undertake to review concurrent findings of fact by two courts below in the absence of a very obvious and exceptional showing of error.").

In any event, the court of appeals correctly determined that a reasonable juror could have found that petitioner "lied." Pet. App. 7a-8a; cf. id. at 3a (recounting petitioner's "admission that] she had lied during [her] interviews" with law enforcement). That determination is amply supported by trial evidence showing that petitioner entered the vault to check the contents of a safe drawer from which her coconspirator later stole remittance funds. Id. at 2a-3a. Any disagreement petitioner may have with the jury's view of the evidence, or the lower courts' factbound review of her sufficiency claim, does not implicate Thompson and provides no basis to GVR.

The petition for a writ of certiorari should be denied.²

Respectfully submitted.

D. JOHN SAUER
Solicitor General

JULY 2025

² The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.