Syllabus

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SUPREME COURT OF MAYFLOWER

Syllabus

ALEX_ARTEMIS *v.* STATE OF MAYFLOWER

CERTIORARI TO THE DISTRICT COURT OF THE DISTRICT OF NEW HAVEN

No. 06–08. Argued December 6, 2022—Decided December 25, 2022

Alex_Artemis was searched and arrested for possessing state-issued equipment related to his position as the Director of the Parks and Wildlife Service while they were not on-duty. They were charged for violating the Non-Civilian Equipment and Gavel Possession Act and for 3 M.C.C. §4. In the lower court, Mr. Artemis moved to dismiss the possession charge for ambiguous grounds in the statute's language and that the act allows them to possess the equipment since they are a law enforcement officer, albeit off-duty. The Grand Theft charge was challenged that the Government could not value the state's equipment since it is dispensed and made free-of-charge and, therefore, could not exceed the minimum monetary value requirement to be charged. The same charge was also disputed with a claim that Mr. Artemis had legal ability to retain the equipment, even while not performing his official duties. The lower court rejected the motion.

Held: The language of the Non-Civilian Equipment and Gavel Possession Act is upheld, and the statutory construction proposed by Mr. Artemis is rejected. Pp. 1–5.

(a) When constructing a statute's language, it is important to read it in context of the surrounding statements and clauses as opposed to isolated from the meaning of the rest of the document. The context of these statements can be used to demonstrate and outline the state legislature's intent when passing the bill, which shall dictate how it is to be enforced. Pp. 2–3.

(b) The Rule of Lenity compels that a statutory construction be resolved in favor of a criminal defendant when there exists "no satisfactory construction." *Lockhart* v. *United States*, 577 U.S. 347, 361. This

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does not apply in reading the Non-Civilian Equipment and Gavel Possession Act as there does exist a satisfactory construction while maintaining the legislature's intent. Pp. 4.

(c) The language of the Non-Civilian Equipment and Gavel Possession Act is not constitutionally offensive as too ambiguous to be enforced within the bounds of the Fourteenth Amendment. Under the ordinary person test, the language is sufficient to clearly state which conduct is prohibited under the statute. Pp. 5.

(d) A motion for dismissal is an inappropriate medium to raise factual dispute against an information and the lower court was correct to reject the challenge. This Court will not decide whether the Grand Theft charge was appropriate in this application because both grounds of dispute are on matters of fact, which the lower court has not had a chance to hear. Pp. 5–7.

Judgment affirmed.

TAXESARENTAWESOME, J., delivered the opinion of the Court, in which BLCVLCI, C.J., and PARMENIONN and LIAMDOSEN, JJ., joined, in which TURNTABLE5000, J., joined as to all but Part III. TURNTABLE5000, J., filed an opinion dissenting in part.

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SUPREME COURT OF MAYFLOWER

No. 06–08

ALEX_ARTEMIS, PETITIONER *v.* STATE OF MAYFLOWER

ON WRIT OF CERTIORARI TO THE DISTRICT COURT OF THE DISTRICT OF NEW HAVEN

[December 25, 2022]

JUSTICE TAXESARENTAWESOME delivered the opinion of the Court.

The Government has a substantial interest in retaining its equipment given to state employees in the performance of their duties. In the past, the State of Mayflower has been faced with an endemic of its equipment being retained for purposes unrelated to the performance of a government employee's duties. Because of that, the state legislature enacted a statute to specifically target state employees that unlawfully possess the equipment they are entrusted with. This case concerns whether a criminal defendant that is found in possession of certain types of such equipment while not actively performing their duties can be charged under the Non-Civilian Equipment and Gavel Possession Act and for a separate charge of Grand Theft.

We hold that a charge of possessing state equipment unrelated to the performance of one's duties is proper in this case but will decline to comment on the charge of Grand Theft as it is a question that is not ripe to be answered yet in this matter.

I

Alex_Artemis was found in possession of several police-issued equipment while they were off-duty from their position as the Director of the Parks and Wildlife Department, which is a law enforcement agency of the state. They were charged with violating the Non-Civilian Equipment and Gavel Possession Act and 3 M.C.C. §4. The Non-Civilian Equipment and Gavel Possession Act makes it unlawful for a person to possess certain types of police equipment under circumstances. However, its language is authored in a way to exclude enforcement on those that are using it in the performance of their duties.

In the lower court, Mr. Artemis moved for the case against them to be dismissed on the grounds that the act they were charged under for possessing the equipment is ambiguous, that they were permitted to carry the equipment by the same act that they were charged under, and that the equipment has no economical value to be measured to exceed the monetary value minimum required to be charged with Grand Theft. The lower court denied the motion. Artemis petitioned this Court for certiorari to review the lower court's ruling, which we granted.

II

In reviewing the possession charge that the Government sought after against Mr. Artemis, we must first review both the constitutional deficiencies alleged against the language of the statute that criminalized the conduct.

A

Mr. Artemis argued that the language of the provision of the Non-Civilian Equipment and Gavel Possession Act which criminalizes possession of non-civilian equipment in

this matter is ambiguous and constitutionally offensive. The lower court upheld the statute and found that the provision is clear in that it criminalizes possession to all except those that are on the team which received the equipment that is possessed.

The specific provision that draws ire by Mr. Artemis reads that it criminalizes those that "possesses a […] cone and does not hold one of the above listed positions." The subsection ends with a reference to the section just above, which encompasses Mr. Artemis' position as a law enforcement officer. However, the section that holds the reference to Mr. Artemis' position also reads that it requires that the possession be done "while on duty of the specific team that the equipment was dispensed upon" for it to qualify for the exception at the end of the first mentioned provision.

The question as to how to read this statute is whether the enforcement mechanism that only requires that a person hold the listed office to be excused is at-all affected by the clause above that which imposes the additional requirement of the person being on-duty of the team associated with the equipment. Our determination is that this is the case.

The statutory interpretation put forward by Mr. Artemis asserts that we answer this question in the negative, that this Court disregard the first provision that imposes the requirement that the person be on-duty as it is not backed by the enforcement mechanism below. Further, that this interpretation would be affirmed if we were to apply the rule of lenity. See Brief for Petitioner 5.

To disregard the context of which the enforcement mechanism clause was written into is an inappropriate manner of reading a statute. The purpose of the statute is to be read in its entirety, not as "a series of unrelated and isolated provisions." *Gustafson* v. *Alloyd Co.*, 513 U.S. 561, 570 (1995).

Lenity is used to resolve dispute "in favor of the defendant only at the end of the process of construing what [the legislature] has expressed when the ordinary canons of statutory construction have revealed no satisfactory construction" *Lockhart* v. *United States*, 577 U.S. 347, 361 (2016) (internal quotation marks omitted) (Citing *Callanan* v. *United States*, 364 U.S. 587, 596 (1961)).

A key flaw present when introducing *Lockhart* is whether there is a "satisfactory construction" present. Is it referencing a construction satisfactory to the state? To the Defendant? To the legislature which enacted the statute? We are faced with several parties that have an interest in constructing any given criminal statute, we are now tasked with determining who has the satisfactory construction.

Lockhart only compels us to apply lenity after trying to construe what the legislature intended. *Ibid.* This practice is established as a standard statutory construction process that "the intention of the legislature must govern in the construction […] and they are not to be construed so strictly as to defeat the obvious intention of the legislature." *Johnson* v. *Southern Pacific Company*, 196 U.S. 1, 17-18 (1904) (internal quotation omitted) (Citing *United States* v *Lacher*, 134 U S. 624, 628 (1890)).

In applying *Johnson* to the case before us, we find that the legislature's intent is made evident and clear by the naming of the act and the provision that Mr. Artemis asked this Court to disregard. We now find that there is a satisfactory construction present in the statute before us. *Lockhart* is only to be used as a last resort when there is no satisfactory end to the normal canons of statutory interpretation.

Because of this, we cannot find that there exists enough ambiguity that would compel us to side with Mr. Artemis' reading of the statute.

B

The language of the statute is also contested in this case on the grounds of being too ambiguous to be enforced within the constitutional confines of the Fourteenth Amendment. See Pet. for Cert. 6. The lower court disagreed and found that the statute was clear in its language of making unlawful the possession of certain grades of equipment by unauthorized parties.

It is critical that a statute that criminalizes any form of conduct is written with language that "ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement." *Kolender, Chief of Police of San Diego, et al.* v. *Lawson*, 461 U.S. 352, 357 (1982). Any statute that does not follow these procedures may find themselves unenforceable within the standards of the Fourteenth Amendment.

In consideration of the Non-Civilian Equipment and Gavel Possession Act, the language is clear for the ordinary person in that it would prohibit a person from possessing state equipment while acting in a private capacity. The lower court agreed with this interpretation and so have the many other countless defendants arrested or sentenced under this statute.

We uphold the Non-Civilian Equipment and Gavel Possession Act.

III

In the lower court, Mr. Artemis moved that the charge of Grand Theft be dismissed because of the inability of the Government to demonstrate that the equipment retained had any monetary value to exceed the minimum requirement needed for a person to be charged with 3 M.C.C. §4. Further, Mr. Artemis argued that the charge was inappropriately applied to him since he was authorized to retain the equipment and cannot be considered stolen. The lower

court denied the request.

This case, as it currently stands, is an interlocutory appeal before a judgment has been rendered on the factual allegations made by the Government. Both grounds that are being argued to regarding the review of the Grand Theft charge are factual allegations that have not been preserved for review since it hasn't had a chance to be heard at trial yet.

A motion for dismissal is an inappropriate medium to make factual allegations against a complaint or pleading unless it too uses factual statements from the complaint or pleading that it is pitted against. Regarding criminal matters, an information charging a defendant is "sufficient" if it describes the offense "in plain and intelligible words" among other things. Mayfl. R. Crim. P. 2(2). To adjudge the stature of an information on other grounds is not keeping to the purpose of a dismissal challenge nor to the law.

When an information meets the guidelines imposed by our procedural rules, it is impervious to dismissal unless it can be demonstrated to the contrary that it does not follow the prescribed rules. A challenge on factual basis is inappropriate and not a prerequisite to be demonstrated at the stage of which an information is presented. These are standards adopted by the federal courts in a similar fashion. See *Bell Atlantic Corp.* v. *Twombly*, 550 U.S. 544 (2007).

The lower court was correct to reject the dismissal challenge against the Grand Theft charge (although ruling so for the incorrect reasons). It has not had a chance to hear the factual allegations before it and cannot make a ruling on a challenge to those allegations. Questions and assertions of fact are to be heard at trial, not through a pretrial document in the absence of trial to present witnesses before an open court.

Now, we are asked to hear the question posed to the lower court again under the same circumstances of the ab-

sence of a trial. We cannot answer the question on fact because the lower court hasn't done so since it hasn't had a chance to do so in a proper setting.

Our ability to review extends as "final appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make." Art. XI., Sec. 2., Mayf St. Const. We find such an exception here given that there is no factual ruling for us to review since the medium it was brought up in is inappropriate. We are compelled to "give deference to the factual findings of the District Court, recognizing its comparative advantage in understanding the specific context in which the events of this case occurred." *Varity Corp* v. *Howe*, 516 U.S. 489, 498 (1996). Without the lower court being given a chance to give its factual findings, we are unable to proceed. This standard is critical to enforce to avoid usurping the power of the lower courts by forcing all questions upwards unnecessarily.

We refuse to make a ruling on whether the Government's allegation of Grand Theft was properly applied here as this case is not an appropriate vehicle to hear considerations of monetary valuation of state-issued equipment as well as a determination of whether an employee holds consent from the state to retain their equipment in a private capacity.

* * *

Accordingly, we affirm the judgment of the lower court as to the possession charge.

It is so ordered.

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SUPREME COURT OF MAYFLOWER

No. 06-08

ALEX_ARTEMIS, PETITIONER *v.* STATE OF MAYFLOWER

ON WRIT OF CERTIORARI TO THE DISTRICT COURT OF THE DISTRICT OF NEW HAVEN

[December 25, 2022]

JUSTICE TURNTABLE5000, dissenting in part.

I join the opinion of the Court insofar it holds that the District Court's statutory analysis survives muster, as lenity does not apply in favor of the Appellant. It is axiomatic that every statute is *vague* in some form, and "[t]he simple existence of statutory ambiguity, however, is not sufficient to warrant application of [the rule of lenity]." *Muscarello* v. *United States*, 524 U. S. 125, 138 (1998). Simply put, the Appellant wishes for us to "engraft an illogical requirement to [the statute]," *Salinas* v. *United States*, 522 U. S. 52, 66 (1997), and that is something we simply cannot do. The Non-Civilian Equipment and Gavel Possession Act is upheld and is deemed to be statutorily sound. However, I disagree with the Court's analysis of the Grand Theft charge, and their erroneous decision to deny review of it at this juncture.

The Court hastily dismisses the inappropriate nature of charging a law enforcement officer with Grand Theft. Grand Theft criminalizes the "[s]tealing [of] another's property with a value of over $200, including local, county, or state issued equipment to public services." 3 M. C. C. § 4. We

are indeed a Court of "review, not of first view." *Adarand Constructors, Inc.* v. *Mineta*, 534 U. S. 103, 110 (2001); *Cutter* v. *Wilkinson*, 544 U. S. 709, 718 n. 7 (2005). However, determining whether the Grand Theft charge can survive legal scrutiny in the eyes of its applicatory manner, is a legal question; "[D]ecisions on questions of law are reviewable de novo," *Highmark Inc.* v. *Allcare Health Management*, 134 S. Ct. 1744, 1748 (2014) (internal quotation marks omitted) (citing *Pierce* v. *Underwood*, 487 U. S. 552, 558 (1988)), and that is precisely the standard that this Court has rejected employing.

At this juncture, it remains a legal impossibility for any Court to quantify the value of a piece non-civilian equipment. There are simply no production costs affixed to any piece of non-civilian equipment, in essence it magically appears at the click of a button. It is true that the *existing* pool of non-civilian equipment increases with each successive press, but it is also true that it cannot be quantified, as it is also not readily available for sale at any distributor. With the absence of any production costs, no Court can quantify the value of these tools. The Court attempts to fend off viable attacks through their assertation of *Bell Atlantic Corp.* v. *Twombly*, 550 U. S. 544 (2007). But this is unfounded and erroneous; to engage in such an absent-minded maneuver denigrates our purpose. The majority failed to engage in a *de novo* review of the legal matter at hand, one that primarily revolves around the legal impossibility of quantification. When such an impossibility revolves around a mandatory prong, the charge is wholly inapplicable, but this Court has instead—acquainted with this holier-than-thou attitude as it attempts to elevate its position through this erroneous move—denies review and sets the lower court up for an inevitable failure. Failure to dispose of this matter now will indisputably come back to bite us. It would be in the best interests of the "judicial economy and the avoidance of delay, rather than being hindered, would be best served by

resolving the issue." *Pennsylvania* v. *Ritchie*, 480 U. S. 39, 50 n. 8 (1987) (comparing *Cox Broadcasting Corp.* v. *Cohn*, 420 U. S., 469, 477-478 (1975)) (exceptions to finality doctrine justified in part by need to avoid economic waste and judicial delay).

Many judicially erected principles solely derived from the necessity of preserving our judicial economy. *Wirtz* v. *Laborers*, 389 U. S. 477, 480 (1968) ("The interests of judicial economy are therefore best served if we proceed to resolve this important question now"); *Christianson* v. *Colt Industries Operating Corp.*, 486 U. S. 800, 816 (1988) (This rule of practice promotes the finality and efficiency of the judicial process by 'protecting against the agitation of settled issues.'") (citing 1B J. Moore, J. Lucas, & T. Currier, Moore's Federal Practice ¶ 0.404[1], p. 118 (1984)); 28 U. S. C. §1291; *Cobbledick* v. *United States*, 309 U. S. 323, 324-326 (1940) (holding that §1291 ultimately promotes judicial efficiency); *United States* v. *Nixon*, 418 U. S. 683 (1974) (applying *Cobbledick*). By failing to accommodate such a request at this juncture, it will inevitably bounce back on appeal; a legal impossibility of this grandness, it is a fool's move to dismiss it so hastily.

I frown upon this Court's decision to not adequately review the Grand Theft charge, as it is a matter of legality, and not a factual approach that we must approach. By failing to employ the proper *de novo* standard, we have failed to properly review the claims brought before us. And in this matter, *de novo* review is certainly compelled, and we are bound to review it under that standard as "no form of appellate deference is acceptable." *Salve Regina College* v. *Russell*, 499 U. S. 225, 238 (1991). It is patently clear that there is a current legal impossibility regarding the quantification of a piece of non-civilian equipment, that much is true. The failure to appropriately deal with this matter at this juncture is erroneous.

For the foregoing reasons, I join the opinion of the Court

insofar as it discusses the inapplicability of the rule of lenity for the premier charge, but I dissent in this Court's refusal to answer whether the Grand Theft charge is sound and appropriate in this matter. It wholeheartedly is not, and the legal impossibility will certainly plague the lower court in its decision. I therefore respectfully dissent from the Court's decision with respect to Part III.