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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.* RODRIQUEZ

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

No. 06–1646. Argued January 15, 2008—Decided May 19, 2008

Upon respondent's federal conviction for possession of a firearm by a convicted felon, 18 U. S. C. §922(g)(1), he had three prior Washington state convictions for delivery of a controlled substance. At the time of those convictions, Washington law specified a maximum 5-year prison term for the first such offense. A recidivist provision, however, set a 10-year ceiling for a second or subsequent offense, and the state court had sentenced respondent to concurrent 48-month sentences on each count. The Government contended in the federal felon-in-possession case that respondent should be sentenced under the Armed Career Criminal Act (ACCA), §924(e), which sets a 15-year minimum sentence "[i]n the case of a person who violates [§922(g)] and has three previous convictions . . . for a . . . serious drug offense," §924(e)(1). Because a state drug-trafficking conviction qualifies as "a serious drug offense" if "a maximum term of imprisonment of ten years or more is prescribed by law" for the "offense," §924(e)(2)(A)(ii), and the maximum term on at least two of respondent's Washington crimes was 10 years under the state recidivist provision, the Government argued that these convictions had to be counted under ACCA. The District Court disagreed, holding that the "maximum term of imprisonment" for §924(e)(2)(A)(ii) purposes is determined without reference to recidivist enhancements. The Ninth Circuit affirmed.

Held: The "maximum term of imprisonment . . . prescribed by law" for the state drug convictions at issue was the 10-year maximum set by the applicable state recidivist provision. Pp. 3–14.

(a) This reading is compelled by a straightforward application of §924(e)(2)(A)(ii)'s three key terms: "offense," "law," and "maximum term." The "offense" was the crime charged in each of respondent's

drug-delivery cases. And because the relevant "law" is the state statutes prescribing 5- and 10-year prison terms, the "maximum term" prescribed for at least two of respondent's state drug offenses was 10 years. The Ninth Circuit's holding that the maximum term was 5 years contorts ACCA's plain terms. Although the state court sentenced respondent to 48 months, there is no dispute that state law permitted a sentence of up to 10 years. The Circuit's interpretation is also inconsistent with how the concept "maximum term of imprisonment" is customarily understood by participants in the criminal justice process. Pp. 3–5.

(b) Respondent's textual argument—that because "offense" generally describes a crime's elements, while prior convictions required for recidivist enhancements are not typically elements, such convictions are not part of the ACCA "offense," and the "maximum term" for the convictions at issue was the 5-year ceiling for simply committing the drug offense elements—is not faithful to the statutory text, which refers to the maximum 10-year term prescribed by Washington law for each of respondent's two relevant offenses. Respondent's "manifest purpose" argument—that because ACCA uses the maximum state-law penalty as shorthand for conduct sufficiently serious to trigger the mandatory penalty, while an offense's seriousness is typically gauged by the nature of the defendant's conduct, the offense's elements, and the crime's impact, a defendant's recidivist status has no connection to whether his offense was serious—rests on the erroneous proposition that a prior record has no bearing on an offense's seriousness. Respondent's understanding of recidivism statutes has been has squarely rejected. See, *e.g., Nichols* v. *United States*, 511 U. S. 738, 747. Pp. 5–7.

(c) Respondent's argument that the Court's ACCA interpretation produces a perverse bootstrapping whereby a defendant is punished under federal law for being treated as a recidivist under state law is rejected. The Court's reading is bolstered by the fact that ACCA is itself a recidivist statute, so that Congress must have understood that the "maximum penalty prescribed by [state] law" could be increased by state recidivism provisions. Contrary to respondent's suggestion, *United States* v. *LaBonte*, 520 U. S. 751—in which the Court held that the phrase "maximum term authorized" in 28 U. S. C. §994(h) "refers to all applicable statutes," including recidivist enhancements—supports the Court's ACCA interpretation. Respondent's reliance on *Taylor* v. *United States*, 495 U. S. 575, is also misplaced: There is no connection between the issue there (the meaning of "burglary" in §924(e)(2)(B)(ii)) and the meaning of "maximum term of imprisonment . . . prescribed by law" in §924(e)(2)(A)(ii). Respondent argues unpersuasively that, under today's interpretation, offenses that are not really serious will be included as "serious drug of-

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fense[s]" because of recidivist enhancements. Since Congress presumably thought that state lawmakers must consider a crime "serious" when they provide a 10-year sentence for it, this Court's holding poses no risk that a drug-trafficking offense will be treated as "serious" without satisfying the standard Congress prescribed. Pp. 7–9.

(d) Also rejected is respondent's argument that the Court's holding will often require federal courts to engage in difficult inquiries regarding novel state-law questions and complex factual determinations about long-past state-court proceedings. Respondent greatly exaggerates the difficulties because (1) receipt of a recidivist enhancement will necessarily be evident from the sentence's length in some cases; (2) the conviction judgment will sometimes list the maximum possible sentence even where the sentence actually imposed did not exceed the top sentence allowed without recidivist enhancement; (3) some jurisdictions require the prosecution to submit a publicly available charging document to obtain a recidivist enhancement; (4) a plea colloquy will often include a statement by the trial judge regarding the maximum penalty; and (5) where the records do not show that the defendant faced a recidivist enhancement, the Government may well be precluded from establishing that a conviction was for a qualifying offense. Merely because future cases might present difficulties cannot justify disregarding ACCA's clear meaning. Pp. 10–11.

(e) Also unavailing is respondent's argument that if recidivist enhancements can increase the "maximum term" under ACCA, then mandatory guidelines systems capping sentences can decrease the "maximum term," whereas Congress cannot have wanted to make the "maximum term" dependent on the complexities of state sentencing guidelines. The phrase "maximum term of imprisonment . . . prescribed by law" for the "offense" could not have been meant to apply to the top sentence in a guidelines range because (1) such a sentence is generally not really the maximum because guidelines systems typically allow a sentencing judge to impose a sentence that exceeds the top of the guidelines range under appropriate circumstances; and (2) in all of the many statutes predating ACCA and the federal Sentencing Reform Act of 1984 that used the concept of the "maximum" term prescribed by law, the concept necessarily referred to the maximum term prescribed by the relevant criminal statute, not the top of a sentencing guideline range. *United States* v. *R. L. C.*, 503 U. S. 291, 295, n. 1, 299, distinguished. Pp. 11–14.

464 F. 3d 1072, reversed and remanded.

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