Syllabus

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

Syllabus

WHITFIELD *v.* UNITED STATES

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

No. 03–1293. Argued November 30, 2004—Decided January 11, 2005*

Petitioners were convicted of conspiracy to launder money in violation of 18 U. S. C. §1956(h) after the District Court denied their request to instruct the jury that the Government was required to prove beyond a reasonable doubt that at least one of the co-conspirators had committed an overt act in furtherance of the conspiracy. The Court of Appeals affirmed the convictions, holding, in relevant part, that the jury instructions were proper because §1956(h) does not require proof of an overt act.

Held: Conviction for conspiracy to commit money laundering, in violation of §1956(h), does not require proof of an overt act in furtherance of the conspiracy. Pp. 3–10.

(a) Section 1956(h) provides: "Any person who conspires to commit any offense defined in [§1956] or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy." In *United States* v. *Shabani*, 513 U. S. 10, this Court held that the nearly identical language of the drug conspiracy statute, 21 U. S. C. §846, does not require proof of an over act. The *Shabani* Court found instructive the distinction between §846 and the general conspiracy statute, 18 U. S. C. §371, which supersedes the common law rule by expressly including an overt-act requirement. *Shabani* distilled the governing rule for conspiracy statutes: *Nash* v. *United States*, 229 U. S. 373, and *Singer* v. *United States*, 323 U. S. 338, "'give Congress a formulary: by choosing a text modeled on §371, it gets an overt-act requirement; by choosing a text modeled on the Sherman Act, 15 U. S. C. §1 [which,

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*Together with No. 03–1294, *Hall* v. *United States,* also on certiorari to the same court.

like 21 U. S. C. §846, omits any express overt-act requirement], it dispenses with such a requirement.'" 513 U. S., at 14. This rule dictates the outcome here as well: Because §1956(h)'s text does not expressly make the commission of an overt act an element of the conspiracy offense, the Government need not prove an overt act to obtain a conviction. Pp. 3–5.

(b) Petitioners' argument that *Shabani* is inapplicable because §1956(h) does not establish a new conspiracy *offense,* but merely increases the *penalty* for conviction of a money laundering conspiracy under §371, is untenable for two reasons: Section §1956(h)'s text is sufficient to establish an offense and fails to provide any cross-reference to §371. Had Congress intended to create the scheme petitioners envision, it would have done so in clearer terms. Because §1956(h)'s text is plain and unambiguous, the Court need not consider petitioners' argument that the provision's legislative history supports their construction by virtue of its failure to indicate that Congress meant to create a new offense or to eliminate §371's overt-act requirement for money laundering conspiracies. In any event, mere silence in the legislative history cannot justify reading an overt-act requirement into §1956(h). See, *e.g.*, *United States* v. *Wells*, 519 U. S. 482, 496–497. Petitioners' legislative history argument is particularly inapt here because Congress is presumed to have had knowledge of *Nash* and *Singer* when it enacted §1956(h). Petitioners' arguments as to §1956's text and structure as a whole—(1) that had Congress intended §1956(h) to create a new conspiracy offense, it would have placed that offense with the three substantive money laundering offenses set forth in §1956(a); and (2) that by providing that "[a] prosecution for [a money laundering] conspiracy offense . . . may be brought in the district where venue would lie for the completed offense under [§1956(i)(1)], or in any other district where an act in furtherance of the . . . conspiracy took place," §1956(i)(2), Congress confirmed that proof of an overt act was required under §1956(h)—are not persuasive. Pp. 5–9.

349 F. 3d 1320, affirmed.

O'CONNOR, J., delivered the opinion for a unanimous Court.