

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

DOLAN v. UNITED STATES**CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE TENTH CIRCUIT**

No. 09–367. Argued April 20, 2010—Decided June 14, 2010

Petitioner Dolan pleaded guilty to assault resulting in serious bodily injury and entered into a plea agreement, which stated that the District Court could order restitution for his victim. Dolan’s presentence report also noted that restitution was required, but did not recommend an amount because of a lack of information on hospital costs and lost wages. The Mandatory Victims Restitution Act provides that “if the victim’s losses are not ascertainable by the date that is 10 days prior to sentencing,” the court “shall set a date for the final determination of the victim’s losses, not to exceed 90 days after sentencing.” 18 U. S. C. §3664(d)(5). On July 30, the District Court held a sentencing hearing and imposed a sentence of imprisonment and supervised release. On August 8, the court entered a judgment, stating that restitution was “applicable” but leaving open the amount of restitution given that no information had yet “been received regarding possible restitution payments.” On October 5, 67 days later, an addendum documenting the restitution amount was added to the presentence report. The court did not set a hearing until February 4, about three months after the 90-day deadline had expired. At the hearing, Dolan argued that because that deadline had passed, the law no longer authorized restitution. Disagreeing, the court ordered restitution, and the Tenth Circuit affirmed.

Held: A sentencing court that misses the 90-day deadline nonetheless retains the power to order restitution—at least where, as here, that court made clear prior to the deadline’s expiration that it would order restitution, leaving open (for more than 90 days) only the amount. Pp. 3–15.

(a) To determine the consequences of a missed deadline where, as here, the statute does not specify them, this Court looks to the statu-

Syllabus

tory language, to the relevant context, and to what they reveal about the deadline’s purposes. A “jurisdictional” deadline’s expiration prevents a court from permitting or taking the action to which the statute attached the deadline. The prohibition is absolute. It cannot be waived or extended for equitable reasons. See *John R. Sand & Gravel Co. v. United States*, 552 U. S. 130, 133–134. Other deadlines are “claims-processing rules,” which do not limit a court’s jurisdiction, but regulate the timing of motions or claims brought before the court. Unless a party points out that another litigant has missed such a deadline, the party forfeits the deadline’s protection. See, e.g., *Kontrick v. Ryan*, 540 U. S. 443, 454–456. In other instances, a deadline seeks speed by creating a time-related directive that is legally enforceable but does not deprive the judge or other public official of the power to take the action even if the deadline is missed. See, e.g., *United States v. Montalvo-Murillo*, 495 U. S. 711, 722. In light of its language, context, and purposes, the statute at issue sets forth this third kind of limitation. The fact that a sentencing court misses the 90-day deadline, even through its own or the Government’s fault, does not deprive the court of the power to order restitution. Pp. 3–5.

(b) Several considerations lead to this conclusion. First, where, as here, a statute “does not specify a consequence for noncompliance with” its “timing provisions,” “federal courts will not” ordinarily “impose their own coercive sanction.” *United States v. James Daniel Good Real Property*, 510 U. S. 43, 63. A statute’s use of “shall” alone, see §3664(d)(5), does not necessarily bar judges from taking the action to which the missed deadline refers. Second, the statute places primary weight on, and emphasizes the importance of, imposing restitution upon those convicted of certain federal crimes. See §3663A. Third, the statute’s procedural provisions reinforce this substantive purpose. They reveal that the statute seeks speed primarily to help crime victims secure prompt restitution, not to provide defendants with certainty as to the amount of their liability. Fourth, to read the statute as depriving the sentencing court of the power to order restitution would harm the victims, who likely bear no responsibility for the deadline’s being missed and whom the statute seeks to benefit. That kind of harm to third parties provides a strong indication that Congress did not intend a missed deadline to work a forfeiture. See *Brock v. Pierce County*, 476 U. S. 253, 262. Fifth, the Court has interpreted similar statutes, such as the Bail Reform Act of 1984, similarly. See *Montalvo-Murillo*, *supra*, at 721. Sixth, the defendant normally can mitigate potential harm by telling the court that he fears the deadline will be, or just has been, missed, and the court will likely set a timely hearing or take other statutorily required action. Pp. 5–10.

Syllabus

(c) This Court has not understated the potential harm to a defendant of a missed deadline. Petitioner claims that because the sentence will not be a “final judgment” for appeal purposes without a definitive determination of the restitution amount, to delay that determination beyond the deadline is to delay his ability to appeal. But a defendant who knows that restitution will be ordered and is aware of the amount can usually avoid additional delay by asking for a timely hearing; if the court refuses, he could seek mandamus. And in the unlikely instance that delay causes the defendant prejudice, he remains free to ask the appellate court to take that fact and any other equitable considerations into account on review. This does not mean that the Court accepts petitioner’s premise that a sentencing judgment is not “final” until the restitution amount is determined. Although that question need not be decided here, strong arguments favor the appealability of the initial judgment irrespective of the delay in determining the restitution amount. A judgment imposing “discipline” may still be “freighted with sufficiently substantial indicia of finality to support an appeal.” *Corey v. United States*, 375 U. S. 169, 174. And several statutes say that a “judgment of conviction” that “includes” “imprisonment” is a “final judgment.” *E.g.*, 18 U. S. C. §3582(b). Moreover, §3664(o) provides that a “sentence that imposes an order of restitution,” such as the later restitution order here, “is a final judgment.” Even assuming that the rule of lenity could be applied to a statutory time provision in the criminal context, here there is no statutory ambiguity sufficiently grievous to warrant its application in this case. *Muscarello v. United States*, 524 U. S. 125, 139. Pp. 10–15.

571 F. 3d 1022, affirmed.

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