Shaw v. United States, No. 15-5991

A unanimous Court today clarified the scope of the federal bank fraud statute, rejecting several efforts to narrow the subsection that criminalizes the knowing execution of a scheme "to defraud a financial institution." 18 U.S.C. s 1344(1). Petitioner Shaw had fraudulently transferred funds from a bank customer's account to accounts that Shaw controlled. Shaw contended that he could not be liable in the absence of proof that his conduct was directed at harming the bank. The Court held, first, that the statute did not require proof of a specific intent to defraud the bank as well as the customer because the bank had a property interest in the deposited funds. Second, proof of intent to cause the bank financial harm was unnecessary so long as the fraud was intended to induce the bank to part with the funds. Third, the government need not prove that the defendant knew that the bank had a property interest in its customer's account. Fourth, it also was unnecessary to prove that the defendant's purpose was to harm the bank's property interest rather than merely to steal from the customer. Finally, the specific language outlawing schemes to obtain property in the "custody or control" of a bank in 18 U.S.C. § 1344(2) did not preclude the application of section 1344(1) to theft from a customer's account. The Court held that the resulting partial overlap in the subsections' scope left each subsection with sufficient independent meaning. The Court did remand for the Ninth Circuit to consider the preservation and merits of a challenge to a jury instruction allowing imposition of liability for a scheme intended "to deceive, cheat, *or* deprive" a financial institution of something of value, where both parties agreed that a conviction required proof of intent to deceive or cheat *and* to deprive a bank of property. The opinion was authored by Justice Breyer.