



FOR IMMEDIATE RELEASE

November 3, 2014

Media Contact: Cory Andrews | 202-588-0302

High Court to Hear Arguments Wednesday on Whether Sarbanes-Oxley's "Anti-Shredding" Provision Covers Fish

(Yates v. United States)

“Overcriminalization occurs when vague, ambiguous language in a criminal statute deprives citizens of the appropriate ‘fair warning’ needed to comply with the law. The Eleventh Circuit’s overbroad interpretation of the Sarbanes-Oxley Act’s ‘anti-shredding’ provision would radically transform that law into a trap for the unwary.”—Cory Andrews, WLF Senior Litigation Counsel

WASHINGTON, DC—On Wednesday, November 5, 2014, at 10:00 a.m., the U.S. Supreme Court will hear oral argument in a criminal case, *Yates v. United States*. The Court will decide whether to overturn the conviction, under the Sarbanes-Oxley Act, of John Yates, a commercial fisherman who allegedly directed his crew to throw undersized fish back into the sea after receiving a regulatory citation for catching them.

Washington Legal Foundation filed a brief in the case urging reversal of Yates’s conviction, arguing that the broadly worded statute failed to provide Yates with requisite “fair warning” of what conduct would run afoul of the law. WLF Senior Litigation Counsel Cory Andrews, who authored WLF’s *amicus* brief, will be available following oral argument to discuss the case and assess whether the justices’ questioning suggested any particular outcome.

The case raises important questions about the permissible scope of the Sarbanes-Oxley Act, a law passed in 2002 to restore integrity to and faith in public companies’ disclosure and accounting practices in the wake of corporate scandals at Enron and WorldCom. Yates was convicted for violating the Act’s so-called anti-shredding provision, 18 U.S.C. § 1519, which makes it a crime to destroy or cover up “any record, document, or tangible object” with the intent to obstruct an investigation. Treating fish as “tangible object[s],” federal prosecutors indicted Yates under § 1519. The U.S. Court of Appeals for the Eleventh Circuit affirmed his conviction.

Ahead of oral argument, WLF issued this statement by Senior Litigation Counsel Cory Andrews: “Overcriminalization occurs when vague, ambiguous language in a criminal statute deprives citizens of the appropriate ‘fair warning’ needed to comply with the law. The Eleventh Circuit’s overbroad interpretation of the Sarbanes-Oxley Act’s ‘anti-shredding’ provision would radically transform that law into a trap for the unwary. It takes the investigation of a civil offense (catching fish that were too small) and converts it into a criminal matter without notice and for no good reason.”

WLF is a public interest law firm and policy center concerned with overcriminalization, such as cases like this one where federal prosecutors seek to criminalize business conduct that, even if technically a violation of some regulatory rule, is better addressed in civil proceedings.

###