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## Supreme Court throws out ‘two-bit’ conviction based on chemical weapons ban

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The Supreme Court on Monday threw out the conviction of a woman who had been prosecuted for trying to poison her husband’s mistress under a federal law banning chemical weapons.

But the unanimous court sidestepped a broader constitutional question about the power of Congress to pass laws implementing international treaties. This question had elevated Carol Anne Bond’s case from a soap opera to the latest chapter in the nation’s long-running political debate over the limits of federal power.

Five members of the court joined Chief Justice John G. Roberts Jr. in [saying that the court need not rule on that constitutional question](#). Instead, the justices decided that Congress had never meant for the broadly written chemical weapons law to apply to what Roberts called a “two-bit” assault such as Bond’s amateurish efforts to harm her former best friend.

Interpreting the law in a way that would transform minor crimes into federal crimes and sweep in products such as detergent and vinegar runs counter to Congress’s intent, Roberts wrote.

“We are reluctant to ignore the ordinary meaning of ‘chemical weapon’ when doing so would transform a statute passed to implement the international Convention on Chemical Weapons into one that also makes it a federal offense to poison goldfish,” Roberts wrote.

The decision provided a narrow way of reversing what the justices unanimously felt were prosecutors gone overboard, without settling whether international treaties give Congress the ability to pass laws that otherwise would be beyond its powers.

The issue arose in what Roberts twice noted was an “unusual” case.

Bond, a Pennsylvania microbiologist who was not able to have children, [was outraged](#) when she learned in 2006 that her best friend, Myrlinda Haynes, was pregnant by Bond’s husband, Clifford. Bond ordered a rare blend of chemicals, partly off the Internet, and over the next several months tried to poison Haynes 24 times by putting the toxins on her doorknob, car and mailbox.

Haynes suffered nothing more than a burn on her fingers, and local prosecutors did not pursue charges. They suggested that she call federal officials, and postal inspectors set up surveillance that identified Bond as the assailant.

Federal prosecutors charged Bond with violating the 1998 Chemical Weapons Convention Implementation Act, a law based on the chemical weapons treaty banning that is signed by all but four nations.

Bond pleaded guilty while reserving the right to appeal her conviction. The case has been through so many courts — including a previous stop at the Supreme Court — that Bond has served her prison term and reunited with her husband, according to her attorneys.

Roberts said federal prosecutors had gone far afield in defining chemical weapons, which would “sweep in everything from the detergent under the kitchen sink to the stain remover in the laundry room. Yet no one would ordinarily describe those substances as ‘chemical weapons,’” Roberts wrote.

He was joined by Justices Anthony M. Kennedy, Ruth Bader Ginsburg, Stephen G. Breyer, Sonia Sotomayor and Elena Kagan.

The court’s most conservative members agreed with the outcome regarding Bond’s conviction but said the court should have decided the larger constitutional question.

Justice Antonin Scalia said Roberts had to perform “gruesome surgery” on the law in order to save it and that the court should have simply decided it was unconstitutional.

Instead, he said, the court “enables the fundamental constitutional principle of limited federal powers to be set aside by the President and Senate’s exercise of the treaty power. We should not have shirked our duty and distorted the law to preserve that assertion; we should have welcomed and eagerly grasped the opportunity — nay, the obligation — to consider and repudiate it.”

Justices Clarence Thomas and Samuel A. Alito Jr. expressed similar thoughts in less colorful language.

While the prosecution of Bond took place during the previous administration, the current one has defended the law. The Obama administration based its defense of the law on a 1920 case, *Missouri v. Holland*, in which the court said Congress has wide powers to pass laws implementing valid federal treaties.

Elizabeth Wydra, chief counsel of the liberal Constitutional Accountability Center, praised the court for respecting that precedent. “The court today refused to accept the invitation of conservatives, including tea party U.S. Senator Ted Cruz and Justice Scalia himself, to gut the constitutional power that gives the federal government authority,” she said.

But others criticized the court for avoiding the constitutional question. “That’s not surprising given that its author is Chief Justice Roberts, who goes out of his way to avoid hard calls whenever possible,” said Ilya Shapiro of the libertarian Cato Institute.

The case is *Bond v. U.S.*