No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

KEVIN BROWN,

***Petitioner*,**

v.

UNITED STATES OF AMERICA,

***Respondent*.**

On Petition for Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

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PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Under 18 U.S.C. § 922(g)(9), a person may not possess a gun if he has been convicted of a "misdemeanor crime of domestic violence." A "misdemeanor crime of domestic violence" is a misdemeanor that (1) has, as an element, the use or attempted use of physical force, and (2) is committed by a person in a specified domestic relationship. *United States v. Hayes*, 555 U.S. 415, 426 (2009) (discussing 18 U.S.C. § 921(a)(33)(A)).

In *Rehaif v. United States*, 139 S. Ct. 2191 (2019), this Court held that in a § 922(g) prosecution, the government must prove that when a defendant possessed a gun, the defendant knew his status as a prohibited person—even if that means the government must prove that a defendant had knowledge of the law.

The question presented, on which the circuits are split, is:

> Whether, in a § 922(g)(9) prosecution, *Rehaif* requires the government to prove that a defendant knew his conviction qualified as a "misdemeanor crime of domestic violence," including that his prior offense had, as an element, the use or attempted use of physical force.

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RELATED PROCEEDINGS

United States District Court (M.D. Fla.)

United States v. Brown, Case No. 6:16-cr-140-Orl-40KRS (April 12, 2017) (judgment)

United States Court of Appeals (11th Cir.)

United States v. Brown, No. 17-11848 (July 21, 2020).

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PETITION FOR A WRIT OF CERTIORARI

Kevin Brown respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit.

OPINION AND ORDER BELOW

The Eleventh Circuit's unpublished opinion affirming Mr. Brown's conviction, *United States v. Brown*, 822 F. App'x 878 (11th Cir. 2020), is provided in Appendix A. The Eleventh Circuit's order denying Mr. Brown's petition for rehearing en banc is provided in Appendix B.

JURISDICTION

The Eleventh Circuit entered judgment on July 21, 2020. Mr. Brown petitioned for rehearing en banc. On February 3, 2021, the Eleventh Circuit denied Mr. Brown's petition.

This Court's March 19, 2020 order extended the deadline for all petitions for writs of certiorari to 150 days from the date of the lower court order denying a petition for rehearing. This Court has jurisdiction under 28 U.S.C. § 1254(1).

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

Section 922(g)(9) of Title 18 of the United States Code provides:

> It shall be unlaw for any person . . . who has been convicted in any court of a misdemeanor crime of domestic violence, to . . . possess in or affecting commerce, any firearm or ammunition . . . .

Section 921(a)(33)(A) of Title 18 of the United States Code provides:

> [T]he term "misdemeanor crime of domestic violence" means an offense that –
>
> (i) is a misdemeanor under Federal, State, or Tribal law; and
>
> (ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

Section 924(a)(2) of Title 18 of the United States Code provides:

> Whoever knowingly violates subsection . . . (g) . . . of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both.

INTRODUCTION

This case presents a circuit split on whether, in a § 922(g)(9) prosecution, *Rehaif* requires the government to prove that a defendant knew his conviction qualified as a "misdemeanor crime of domestic violence," including that his prior offense had, as an element, the use or attempted use of physical force. Because the question presented is exceptionally important, outcome determinative, and the circuit courts are unwilling to resolve their disagreement, Mr. Brown respectfully requests that this Court grant his petition for a writ of certiorari.

STATEMENT OF THE CASE

1. The government indicted Mr. Brown for possessing a gun after being convicted of a "misdemeanor crime of domestic violence" under § 922(g)(9). The misdemeanor conviction was a 2004 Florida conviction for simple battery under Fla. Stat. § 784.03(1).

Mr. Brown moved to dismiss the indictment because § 922(g)(9), as applied to him, is unconstitutional under the Second Amendment. Mr. Brown also argued that his 2004 conviction could not serve as a predicate offense under § 921(a)(33)(B)(i)(II)(bb) because he did not "knowingly and

intelligently" waive his right to a jury trial in that case. After hearing argument, the district court denied the motion.

To preserve the issues in his motion to dismiss, Mr. Brown went to a stipulated bench trial. The parties' stipulation included that, before possessing the firearm, "Mr. Brown had been convicted . . . of committing a battery, in violation of Florida Statute § 784.03(1), against Sherry Lynette Brown, who Mr. Brown cohabitated with and is similarly situated to a spouse" and that "[a]lthough Mr. Brown was convicted of battery . . . the Information and Judgment title the charge as 'domestic battery.'"[1] The district court denied his motion for judgment of acquittal and found him guilty.

Mr. Brown later renewed his motion for judgment of acquittal. Based on then-judge Gorsuch's concurrence in *United States v. Games-Perez*, 667 F.3d 1136 (10th Cir. 2012), he argued the government must prove he knew he was previously convicted of a "misdemeanor crime of

[1] Florida has a class of "domestic violence" crimes. *See* Fla. Stat. §§ 741.28, 741.283. But as the stipulation recognizes, the State did not convict Mr. Brown under Florida's "domestic violence" statute. The district court made the same observation at sentencing.

domestic violence."[2] Mr. Brown acknowledged the Eleventh Circuit's decision in *United States v. Jackson*, 120 F.3d 1226 (11th Cir. 1997), but he argued that it was not binding because that decision was limited to the facts of that case. Therefore, Mr. Brown requested that the district court vacate its verdict and enter a judgment of acquittal. The government argued the motion should be denied because, according to the government, § 922(g)(9) contained no such requirement.

2. The district court denied the motion. Noting that defense counsel had not acted in bad faith by raising the argument, the district court nevertheless found that Mr. Brown was judicially estopped from raising the argument. According to the district court, Mr. Brown's challenge went to the sufficiency of the evidence, which was inconsistent with his agreement that the stipulated facts were sufficient for conviction.

3. On appeal, Mr. Brown again challenged the sufficiency of his stipulation."[3] While Mr. Brown's case was pending before the Eleventh

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[2] Mr. Brown also relied on then-Judge Gorsuch's dissent from the denial of rehearing en banc.

[3] Mr. Brown also reasserted the challenges in his motion to dismiss, but he does not raise those challenges here.

Circuit, this Court held that to convict a defendant under § 922(g), the government must prove the "defendant knew he possessed a firearm and also that he knew he had the relevant status," such as being a felon or alien, "when he possessed it." *Rehaif*, 139 S. Ct. at 2194.

The Eleventh Circuit ordered the parties to file supplemental briefs addressing *Rehaif*'s impact on Mr. Brown's sufficiency challenge. In Mr. Brown's supplemental brief, he argued that *Rehaif* supported vacating his conviction because under *Rehaif*, the government had to prove Mr. Brown knew, when he possessed a gun, that he had been convicted of a "misdemeanor crime of domestic violence." To make that showing, Mr. Brown argued, the government had to prove he knew his battery offense had, as an element, the use or attempted use of physical force. But the stipulation contained nothing showing Mr. Brown had that knowledge.

After oral argument, the Eleventh Circuit affirmed Mr. Brown's conviction. *United States v. Brown*, 822 F. App'x 878 (11th Cir. 2020). As to his *Rehaif* challenge, the Eleventh Circuit stated:

> [T]he stipulation here shows that Brown knew that all of the defining features of misdemeanor crimes of domestic violence were present in his case. Section 921(a)(33)(A) defines misdemeanor crime of domestic violence as a misdemeanor offense that (1) has, as an element, the use of force, and (2) is committed by a person who has a specified domestic

> relationship with the victim. Furthermore, while the domestic relationship must be established, it need not be denominated an element of the predicate offense.
>
> Here, the stipulation that Brown entered into stated that he committed a battery—showing his knowledge that his predicate offense involved the use of force—and that the battery was against Sherry Lynette Brown, who Mr. Brown cohabitated with and is similarly situated to a spouse—showing knowledge of the specified domestic relationship. . . . [T]he stipulation also clarifies that although Mr. Brown was convicted of battery under § 784.03(1), the Information and Judgment title the charge as domestic battery. And Brown clearly stipulated that these same facts were sufficient to allow the district court to find beyond a reasonable doubt that Mr. Brown committed the offense charged in the indictment.
>
> Also admitted at trial was a composite exhibit containing Brown's information, plea agreement, and judgment. This information designates Brown's charge as a "1 DEG MISD," a clear reference to the charge's misdemeanor status. The judgment reflected that Brown should direct payment of costs and fines to the Misdemeanor Division of the State's Attorney's Office. Although the label a state attaches to an offense is not conclusive of whether a prior conviction qualifies as a particular type of offense for purposes of federal law, . . . the documents contained in the exhibit, which pertained specifically to Brown, are relevant to his knowledge about the crime for which he was convicted.

Id. at 883–84 (cleaned up).

Based on the above, the Eleventh Circuit held that Mr. Brown's stipulation contained sufficient direct and circumstantial evidence that

Mr. Brown knew his status as a "domestic violence misdemeanant." The court therefore affirmed his conviction.[4]

REASONS FOR GRANTING THE WRIT

I. The Circuits are split on the question presented.

The courts of appeals are divided on whether, in a § 922(g)(9) prosecution, *Rehaif* requires the government to prove that a defendant knew his conviction qualified as a "misdemeanor crime of domestic violence," including that his prior offense had, as an element, the use or attempted use of physical force. *Compare United States v. Triggs*, 963 F.3d 710 (7th Cir. 2020), *with United States v. Johnson*, 981 F.3d 1171 (11th Cir. 2020). This Court should use this case, which squarely presents this important legal issue, to resolve the conflict.

A. In the Seventh Circuit, the government must prove that a defendant knew his prior misdemeanor offense had, as an element, the use or attempted use of physical force.

In *Triggs*, the Seventh Circuit held that in a § 922(g)(9) prosecution, the government must prove the defendant knew his misdemeanor

[4] The Eleventh Circuit did not rely on the district court's judicial estoppel finding, instead reviewing Mr. Brown's sufficiency of the evidence challenge de novo. *See Brown*, 822 F. App'x at 880, 883.

conviction qualified as a "misdemeanor crime of domestic violence." 963 F.3d at 715. There, Triggs conditionally pled guilty to violating § 922(g)(9) based on a misdemeanor conviction that was more than ten years old. *Id.* at 712. While the case was on appeal, this Court decided *Rehaif*, holding that in a § 922(g) prosecution, the government must prove that a defendant "knew he belonged to the relevant category of persons barred from possessing a firearm." 139 S. Ct. at 2200. So Triggs asked the Seventh Circuit to vacate his plea in light of *Rehaif*. 963 F.3d at 712.

On appeal, the parties agreed that the Seventh Circuit had to review Triggs' claim for plain error because—unlike Mr. Brown—he did not present it in the district court. *Id.* The parties also agreed that Triggs satisfied the first two prongs of plain-error review—that there was an error and the error was plain. *Id.* The parties disagreed, however, on whether Triggs could satisfy the third prong of plain-error review—whether he could show a reasonable probability that he would have pled not guilty had he known the government had to prove the *Rehaif* knowledge element. *Id.*

The Seventh Circuit agreed with Triggs, holding that he could make that showing and had a plausible defense. *Id.* Importantly, the court

noted that "[i]n contrast to some other categories of prohibited persons listed in § 922(g)—notably felons—the statutory definition of "misdemeanor crime of domestic violence" is quite complicated." *Id.* Thus, the Seventh Circuit recognized that proof of the defendant's knowledge of status as a domestic violence misdemeanant requires proof he knew he qualified under the legal definition of that status—including that his predicate conviction had, as an element, the use or attempted use of force.

B. The Ninth Circuit would likely rule the same way as the Seventh Circuit.

The Ninth Circuit's recent decision in *United States v. Door*, 996 F.3d 606 (9th Cir. 2021), while not directly addressing § 922(g)(9), is consistent with *Triggs*. In *Door*, the defendant was convicted of two offenses, one of which was for possessing body armor after being convicted of a felony "crime of violence," in violation of 18 U.S.C. § 931(a). 996 F.3d at 613–14.[5] The Ninth Circuit held that in a § 931(a)

[5] Section 931(a) makes it "unlawful for a person to purchase, own, or possess body armor, if that person has been convicted of a felony that is . . . a crime of violence (as defined in section 16)." Section 16 provides, in relevant part: "The term 'crime of violence' means . . . an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another."

prosecution, the government had to prove the defendant "knew that (1) he was a convicted of a felony and, (2) the felony of which he was convicted had as an element 'the use, attempted use, or threatened use of physical force.'" *Id.* at 615–16.[6]

The Ninth Circuit's holding in *Door* is consistent with the Seventh Circuit's decision in *Triggs*. Both cases addressed similar statuses—statuses in which a defendant had a prior conviction for a crime that had, as an element, the use or attempted use of physical force. And in both cases, the court held the defendant had to know his prior crime had that element. Thus, if the Ninth Circuit faced the § 922(g)(9) question presented here, it would likely resolve the case the same way as the Seventh Circuit.

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[6] Though the Ninth Circuit held that "the district court erred in failing to require the government to prove Door's knowledge of his prohibited statuses," *id.* at 618, it declined to reverse Door's conviction because unlike Mr. Brown, Door had not preserved his argument in the district court. Although the district court's error was plain, Door could not satisfy prong four of plain-error review—that the error seriously affected the fairness, integrity, or public reputation of the judicial proceedings—based on the particular facts of his case.

C. In the Eleventh Circuit, the government does not need to prove that a defendant knew his prior misdemeanor offense had, as an element, the use or attempted use of force.

Recently, in *Johnson*, the Eleventh Circuit, in a published 2-1 decision, came to a decision that directly conflicts with the Seventh Circuit's decision in *Triggs* and affirmed a § 922(g)(9) conviction based on a stipulation similar to Mr. Brown's. 981 F.3d at 1171. Although the Eleventh Circuit reviewed Johnson's *Rehaif* claim for plain error, the decision is applicable because the majority's reasoning as to *Rehaif*'s knowledge of status requirement echoes the Eleventh Circuit's misapplication of *Rehaif* here.

In *Johnson*, the Eleventh Circuit held that the government proves that a defendant knew his status under § 922(g)(9) if it shows the defendant knew: (1) he was convicted of a misdemeanor; (2) to be convicted of that misdemeanor, he had to knowingly or recklessly engage in at least the slightest touching; and (3) he and the victim were in a qualifying domestic relationship. *See id.* at 1183. In contrast to the Seventh Circuit in *Triggs*, the Eleventh Circuit rejected the proposition that a defendant had to know legal definition of "misdemeanor crime of

domestic violence," including that his conviction had, as an element, the use or attempted use of force.

The Eleventh Circuit held that Johnson could not show the errors in his case affected his substantial rights. As to the first element, the Eleventh Circuit held that Johnson knew about his misdemeanor because he (1) stipulated he had the conviction and (2) admitted he knew he was a misdemeanant. *Id.* at 1188.[7]

As to the second element, the Eleventh Circuit stated that Johnson's misdemeanor conviction—Florida battery, like Mr. Brown's—"required that he had, at a minimum, recklessly engaged in at least 'the slightest offensive touching.'" *Id.* at 1188 (citing *United States v Castleman*, 572 U.S. 157, 163 (2014)). The Eleventh Circuit also noted that Johnson stipulated that he "knowingly and intelligently waived his right to a jury trial and pled guilty" to the offense, which meant the state

[7] The Eleventh Circuit also noted that the PSR showed that: (1) the State originally charged Johnson with a felony, and Johnson pled down to a misdemeanor; and (2) Johnson spent six months in jail as a result of the conviction. *Id.* Here, however, Mr. Brown spent only two days in jail for his misdemeanor offense and never stipulated that he knew he was a misdemeanant.

court told him about the elements of the crime when he pled guilty. *Id.*[8]

And as to the third element, the Eleventh Circuit noted that Johnson stipulated that the victim was his wife, so Johnson knew the victim was his wife. *Id.*[9] The Eleventh Circuit therefore held that sufficient evidence supported that Johnson knew his status when he possessed a gun. *Id.* at 1188–89.

i. The *Johnson* dissent.

One member on the *Johnson* panel dissented from the court's *Rehaif* holding. *Id.* at 1192–1200 (Martin, J., concurring in part and dissenting in part). The dissent's concerns show why the majority got it wrong both in *Johnson* and Mr. Brown's case.

As the dissent explained, the majority's test did not require that the government prove the defendant knew his offense had, "as an element, the use or attempted use of physical force." *Id.* at 1196–97. The

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[8] Mr. Brown's stipulation did not include this language. To the contrary, Mr. Brown argued that he did not knowingly and intelligently waive his right to a jury trial. *Brown*, 822 F. App'x at 881–82.

[9] Mr. Brown stipulated that the victim in his misdemeanor offense was "Sherry Lynette Brown, who Mr. Brown cohabitated with and is similarly situated to a spouse." But Mr. Brown never stipulated that he knew he was in a qualifying domestic relationship.

dissent noted that the term "misdemeanor crime of domestic violence" means "an offense that . . . has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon." *Id.* at 1196 (quoting 18 U.S.C. § 921(a)(33)(A)(ii)). And under *Rehaif*, a defendant must know his prior conviction satisfies that definition. In other words, under § 922(g), knowledge of status is a question of law, and the government must prove that a defendant knew about that specific legal element. *Id.*

According to the dissent, under the majority's approach, the government need only prove that a defendant knew his conviction required certain conduct even if he did not know his offense qualified as a "misdemeanor crime of domestic violence." *Id.* But the dissent explained that under *Rehaif*, the government must show the defendant knew his prior conviction satisfied this legal definition (*i.e.*, that the offense had as an element the use or attempted use of physical force). *See id.* at 1197 (explaining that in *Rehaif*, the Supreme Court recognized

that a defendant may raise a "mistake of law" defense when it negates an element of the offense).[10]

The dissent believed the Eleventh Circuit had created a circuit split—specifically, the majority's emphasis on the defendant's knowledge of facts—without consideration of whether the defendant knew the legal definition of "misdemeanor conviction of domestic violence" and the "elements" of the prior offense—split from the Seventh Circuit's holding in *Triggs*. 981 F.3d at 1199, 1200 n.7 (Martin, J., concurring in part and dissenting in part).[11]

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[10] The dissent also was concerned with the majority's temporal approach—specifically, that it relied on what Johnson knew at the time of his stipulated bench trial instead of what he knew when possessed the gun. *Id.* at 1197–98.

[11] Though the majority insisted that it was not creating a circuit split because in *Triggs* the defendant pled guilty and the district court proceedings were "messy," 981 F.3d at 1188 n.12, the dissent has the better reading of *Triggs*, *id.* at 1200 n.7 (Martin, J., concurring in part and dissenting in part) (stating that the *Triggs* court based its decision on the complexity of the statutory definition, not on the "messiness" of the proceedings); *see also supra* n.5. Not only did the *Triggs* court make clear the defendant was entitled to relief based solely on the complexity of the statutory definition, *see supra* n.5, but also the Seventh Circuit has since cited *Triggs* without suggesting the holding turned on the case's unique procedural history. *See United States v. Cook*, 970 F.3d 866, 885 (7th Cir. 2020).

II. The Eleventh Circuit's ruling is wrong.

Respectfully, the Eleventh Circuit's two-member majority in *Johnson* got it wrong and the Seventh Circuit, Ninth Circuit, and the *Johnson* dissent got it right.

In *Rehaif*, this Court recognized that some statuses under § 922(g), such as whether a conviction qualifies as a "misdemeanor crime of domestic violence," involve legal questions. 139 S. Ct. at 2198. And the Court held that the "ignorance of the law" maxim does not apply because these legal questions are "collateral" questions of law. *Id.* (citing 1 W. LaFave & A. Scott, Substantive Criminal Law § 5.1(a), p. 575 (1986), and Model Penal Code § 2.04, at 27); *see also id.* (discussing *Liparota v. United States*, 471 U.S. 419, 425 & n.9 (1985)).

Under *Rehaif*, then, the government had to prove that when Mr. Brown possessed a gun, he knew he had a conviction for a "misdemeanor crime of domestic violence." In other words, the government had to prove that Mr. Brown knew that his misdemeanor conviction had, as an element, "the use or attempted use of physical force." But the stipulated facts at Mr. Brown's bench trial failed to establish he had that knowledge at all, let alone when he possessed the gun.

Indeed, several courts, including this Court, have struggled with knowing exactly what offenses qualify as a "misdemeanor crime of domestic violence." *See Voisine v. United States*, 136 S. Ct. 2272, 2277–78 (2016) (resolving a circuit split about whether offenses with a mens rea of recklessness may qualify as predicate offenses); *Castleman*, 572 U.S. at 162–63 (resolving a circuit split about whether the term "physical force" in § 921(a)(33)(A)(ii) includes common law force); *Hayes*, 555 U.S. at 420 (resolving a circuit split about whether a domestic relationship must be a defining element of a predicate offense).

In fact, Justice Alito made this very point in *Rehaif*: "If the Justices of this Court, after briefing, argument, and careful study, disagree about the meaning of a 'crime of domestic violence,' would the majority nevertheless require the Government to prove at trial that the defendant himself actually knew that his abuse conviction qualified?" 139 S. Ct. at 2208 (Alito, J., dissenting). If courts struggle with knowing what offenses qualify as a "misdemeanor crime of domestic violence," it is easy to understand why Mr. Brown did not know his conviction qualified as one.

Indeed, like the stipulation in *Johnson*, the stipulation here

contained nothing suggesting that Mr. Brown had that knowledge. *See* 981 F.3d at 1180. The stipulation contained only four facts, two of which are relevant. First, that before possessing the gun, Mr. Brown had a misdemeanor battery conviction, in violation of Fla. Stat. § 784.03(1), against a woman with whom he cohabited. And second, although Mr. Brown had a conviction for battery under § 784.03(1), the Information and Judgment from that conviction stated his conviction was for "domestic battery." Neither fact shows that Mr. Brown knew his prior conviction qualified as a "misdemeanor crime of domestic violence." Among other things, the facts do not show that Mr. Brown knew his prior conviction had, as an element, the use or attempted use of force. Thus, the stipulation contains no facts from which this Court can infer that Mr. Brown had the required knowledge. Accordingly, the Eleventh Circuit erred in holding that the government proved Mr. Brown knew his status at the time of his firearm possession, as *Rehaif* requires.

III. The question presented is extremely important.

Section 922(g)(9) "imposes a lifetime ban on possessing a gun for *all* nonfelony domestic offenses, including so-called infractions or summary offenses." *Voisine*, 136 S. Ct. at 2291 (Thomas, J., dissenting). There is no other fundamental constitutional right that a person can lose forever by a single conviction for an infraction punishable by only a fine. *Id.* at 2291–92.

The question presented not only affects the constitutional rights of thousands of people, but it also resolves whether the government can incarcerate these individuals for up to 10 years without ever proving they knew they were prohibited persons. It is therefore important that this Court resolve the split here and clarify whether, in a § 922(g)(9) prosecution, the government must prove that a defendant knew his conviction qualified as a "misdemeanor crime of domestic violence."

Moreover, individuals often plead guilty to misdemeanor offenses without ever being told a conviction will forever bar them from possessing a gun. *See Holmes v. United States*, 876 F.2d 1545, 1548 (11th Cir. 1989) ("[T]he court need not explain the possible collateral consequences of a guilty plea."); *United States v. Chavez*, 204 F.3d 1305, 1314 (11th Cir.

2000) ("[T]he prohibition against firearm possession is a collateral consequence of conviction."). Thus, individuals often plead guilty to misdemeanor offenses that qualify as "misdemeanor crime of domestic violence" without ever knowing they are doing so, let alone the Second Amendment consequences of their decision.

IV. The case is an excellent vehicle to resolve the conflict.

This case provides a particularly good opportunity to resolve the entrenched disagreement among the courts on the question presented. First, the parties fully litigated the question here in the district court and on appeal, and the Eleventh Circuit clearly decided it. Second, the split on the question presented is squarely implicated here, and this case does not involve unique or disputed factual findings. Finally, if this Court adopts the Seventh and Ninth Circuits' positions, Mr. Brown will undoubtedly be entitled to relief.

* * *

In *Rehaif*, this Court was clear. To prove a § 922(g) violation, the government must prove that when a defendant possessed a gun, the defendant knew his status—even if that means the government must prove the defendant knew about the law. Although the government

failed to do so here, the Eleventh Circuit affirmed Mr. Brown's conviction. But if Mr. Brown had been convicted in Wisconsin or Washington, instead of Florida, his conviction would have been vacated. The imposition of a felony conviction should not depend on geographical happenstance. This Court's intervention is needed.

CONCLUSION

For the above reasons, Mr. Brown respectfully requests that this Court grant his petition for a writ of certiorari.

Respectfully submitted,

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