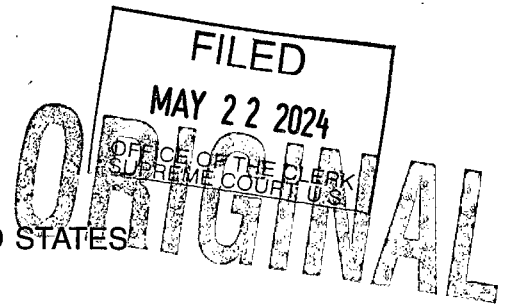


23-7730

No. \_\_\_\_\_

IN THE

SUPREME COURT OF THE UNITED STATES



Thomas Richardson

— PETITIONER

(Your Name)

VS.

United States of America

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The United States Court of Appeals for the Seventh Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Thomas Richardson

(Your Name)

2200 E. Dortha Ave. Unit R

(Address)

Flagstaff, Arizona 86004-3664

(City, State, Zip Code)

(813) 367-2230

(Phone Number)

## QUESTION(S) PRESENTED

1. From whence does the Supreme Court's authority to create exceptions to the plain text of the Constitution derive?
2. Did the decisions in New York v. Ferber, 458 U.S. 747 (1982) and Osborne v. Ohio, 495 U.S. 103 (1990) authorize a police power not granted by the Constitution to the federal government but intended to be reserved to the States?
3. Does the New York State Rifle & Pistol Assn., Inc. v. Bruen, 597 U.S. \_\_\_\_\_ (2022) decision suggest that restrictions imposed upon fundamental Constitutional rights must have their roots in America's historic law?
4. Does the Constitution's Commerce Clause require interstate commerce in order to confer federal jurisdiction?

## LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

## RELATED CASES

United States of America v. Thomas Richardson, 2018 U.S. Dist. LEXIS 122757  
(N.D. Ill. July 23, 2018).

United States of America v. Thomas Richardson, 2022 U.S. Dist. LEXIS 215483  
(N.D. Ill. Nov. 30, 2022).

United States of America v. Thomas Richardson, 2023 U.S. Dist. LEXIS 1466  
(N.D. Ill. Jan. 4, 2023).

United States of America v. Thomas Richardson, No. 22-3196 (7th Cir. Jan. 25, 2024)

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	B3 U.S. v. Richardson, 2023 US Dist. LEXIS 1466 (N.D. Ill. Jan. 4, 2023) Court Opinion on Post-Trial Restitution Order
APPENDIX C	- Timely filed Petitioner for rehearing that was denied by the Seventh Circuit Court of Appeals on February 27, 2024

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IN THE  
SUPREME COURT OF THE UNITED STATES  
  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☒ reported at 2018 US Dist LEXIS 122757; 2022 US Dist. LEXIS 215483; 2023 US Dist LEXIS 1466;  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was January 25, 2024.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: February 27, 2024, and a copy of the order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

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## STATEMENT OF THE CASE

In July 2013, law enforcement identified an IP address belonging to defendant had downloaded child pornography from their honeypot. Based on this information, authorities searched Richardson's apartment pursuant to a search warrant, locating child pornography on computer equipment in his possession.

Richardson was indicted in September 2013 on two charges: receiving child pornography, see 18 U.S.C. § 2252A(a)(2)(A), and possessing child pornography, see 18 U.S.C. § 2252A(a)(5)(B).

At trial, the government presented unrefuted testimony that the hard drives of Richardson's computers were manufactured overseas. The government alleged the images must have traveled interstate because the individuals depicted were resident in states other than Illinois, where Richardson was found to possess them. The jury found Richardson guilty on both charges.

The district court sentenced Richardson to the statutory minimum for each count: 180 months for the receipt count, see 18 U.S.C. § 2252A(b)(1) and 120 months for the possession count plus 10 years of supervised release.

## REASONS FOR GRANTING THE PETITION

### I.

America is the envy of the world because of the power of our ideals immortalized in the text of our Constitution. The words prudently chosen, the sentences carefully crafted to forestall arbitrary rule. The Bill of Rights was added to reserve in perpetuity each individual's fundamental rights. The First Amendment specifically precludes government abridgement of the freedom of speech or press. Our Constitution is a contract intended by all parties to communicate boundaries of authority granted to the federal government.

The proposition that the judiciary might allow speech to be excepted from the First Amendment's dictate is not self-evident. No emergency, no contingency, no ick-factor can alter our Constitution. If change is desired, a single method is authorized: amendment. Authorized methods of amendment do not include ad hoc fiat by any government branch or by the branches working in concert without submission to the States for ratification by the People. Reading a permission to criminalize speech based on its content into the First Amendment robs the Amendment of its clear, concise unequivocal textual meaning. If the First Amendment does not prohibit the government criminalizing content declared too disfavored to deserve protection, what speech can be said to remain protected from the government's dominion? There can be no legitimate government interest in placing a "valve" i.e., to disfavored, on information and ideas under the Constitution. The very concept of individual freedom embraced throughout the Constitution and specifically enumerated in the First Amendment protects that judgment as a basic individual right not to be interfered with by authorities unless the speech (1) threatens imminent physical harm, or (2) provides incitement toward future injury. Any prospective harms from the mere receipt and possession of these images is a purely emotional one that cannot be assuaged effectively by criminalizing

private actions. Because there is no valid basis for Congress' finding that private possession of these materials is responsible for the difficulty in protecting the safety concerns that purportedly motivated their enactment, the proscription bears no relationship whatsoever to any legitimate federal government interest and is an impermissible means of responding to those interests. For the judicial branch to accept the findings of the legislative branch without testing their veracity impinges on separation of powers.

The government bears the burden of justifying its restrictions on speech as the least severe that will achieve the desired end. There is no indication, however small, of the efficacy of Title 18 U.S.C. § 2252A(a) regulations. The government's unsupported arguments are insufficient justification for criminalizing defendant's private possession of these images which is no more harmful than the permitted textual and aural recordings of these crimes and have no demonstrable reductive impact on the overall safety of children.

The Constitution is the supreme Law of the Land; further, the First Amendment to the Constitution forbids the federal government from abridging several individual freedoms including religious belief, speech, press and assembly.

## II.

Both New York v. Ferber, 458 U.S. 747 (1982) and Osborne v. Ohio, 495 U.S. 103 (1990), allow State Proscriptions. States retain their Police Powers, which are unavailable under the Tenth Amendment to the federal government. The protection of citizens, one from another, is a Police Power not delegated to the United States by the Constitution and therefore reserved to the States.

## III.

New York State Rifle & Pistol Assn., Inc. v. Bruen, 597 U.S. \_\_\_\_ (2022) requires restrictions to the freedom to bear arms guaranteed by the Second

Amendment to be rooted in America's historic law. By this same reasoning, restrictions on the freedoms of religious belief, speech, press and assembly guaranteed by the First Amendment must also be subject to this historical testing. Fundamental Constitutional rights which the federal government is enjoined from obstructing are violated by the statutes of conviction in this case. These statutes (18 U.S.C. § 2252A) cannot be said to have any basis in America's historic cannon. At our founding, men claimed ownership of human beings. Women and children were considered the property of their husbands and fathers. The laws supported these tenets.

#### IV.

The Constitution's Commerce Clause, Article I, Section B, Paragraph 3 authorizes federal regulation of Commerce ... among the several States. Commerce is "the exchange or buying and selling of commodities on a large scale involving transportation from place to place." (Merriam-Webster's Collegiate Dictionary, Eleventh Edition).

Reading (viewing) a crime scene image does not become interstate commerce because the reader is traveling on a road that crosses state boundaries, or because she is driving a vehicle manufactured in another state or country. Taking a photograph of the image does not implicate interstate commerce just because the camera or film was manufactured in another country.

In United States v Lopez, 514 U.S. 549 (1995), the Supreme Court decided that the fact that a gun had moved in interstate commerce at one time was not an adequate nexus to interstate commerce to allow federal jurisdiction for the Gun Free School Zone Act.

In the instant case, federal prosecution was premised upon the hard drive in my possession which contained the image(s), was manufactured overseas. No image in this case traveled interstate. Only instructions for its construction

were transmitted. The only "market" for child pornography is in the marketplace of ideas. Similar to the challenge in Lopez, the connection to interstate commerce is too tenuous, too far removed, to confer federal jurisdiction.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Tom Richardson X  
Thomas Richardson

Date: May 23, 2024 X