No. 23-852

IN THE

Supreme Court of the United States

MERRICK B. GARLAND, ATTORNEY GENERAL, ET AL.,

Petitioners,

v.

JENNIFER VANDERSTOK, ET AL.,

Respondents.

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

BRIEF OF CONSTITUTIONAL ACCOUNTABILITY CENTER AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

ELIZABETH B. WYDRA
BRIANNE J. GOROD*
MIRIAM BECKER-COHEN
NINA HENRY
CONSTITUTIONAL ACCOUNTABILITY CENTER
1200 18th Street NW, Suite 501
Washington, D.C. 20036
(202) 296-6889
brianne@theusconstitution.org

Counsel for Amicus Curiae

* Counsel of Record

July 1, 2024

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

TABLE OF AUTHORITIES — cont'd

Page(s)

Statutes and Legislative Materials

TABLE OF AUTHORITIES — cont'd

Page(s)

Other Authorities

TABLE OF AUTHORITIES — cont'd

Page(s)

INTEREST OF *AMICUS CURIAE*[1]

Constitutional Accountability Center (CAC) is a think tank and public interest law firm dedicated to fulfilling the progressive promise of the Constitution's text and history. CAC works in our courts, through our government, and with legal scholars to improve understanding of the Constitution and preserve the rights and freedoms it guarantees. CAC has a strong interest in ensuring that important federal statutes, like the Gun Control Act of 1968, are interpreted in accordance with their text and history, and accordingly has an interest in this case.

INTRODUCTION AND SUMMARY OF ARGUMENT

Galvanized by a string of high-profile assassinations committed by individuals who never should have had firearms in the first place, Congress passed the Gun Control Act of 1968 ("GCA") "to keep guns out of the hands of criminals and others who should not have them, and to assist law enforcement authorities in investigating serious crimes." *Abramski v. United States*, 573 U.S. 169, 180 (2014). Among other things, the law requires those who manufacture and deal in "firearms" to procure a federal firearms license, maintain records of the acquisition and transfer of firearms, conduct background checks, and mark every firearm with a serial number. *See* 18 U.S.C. §§ 922-23. These commonplace rules are familiar to all lawful gun

---

[1] Under Rule 37.6 of the Rules of this Court, *amicus* states that no counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus* or its counsel made a monetary contribution to its preparation or submission.

owners in this country. They are obstacles only to criminals, minors, and other individuals who are legally disqualified from possessing firearms.

The question in this case is whether certain "weapon parts kit[s]" that are "designed to or may readily be completed, assembled, restored, or otherwise converted to expel a projectile by the action of an explosive," 27 C.F.R. § 478.11, and "partially complete, disassembled, or nonfunctional frame[s] or receiver[s]," *id.* § 478.12(c), covered by a Bureau of Alcohol, Tobacco, Firearms and Explosives rule ("the 2022 Rule" or "ATF's Rule"), should be subject to the GCA's basic "firearm" regulations. To be clear, the kits and devices at issue in this case are not mere hunks of metal; they come with names like "Buy Build Shoot," and "80 Percent Arms," and they can be ordered online and assembled at home, often in less than an hour, by anyone with access to a computer and basic tools. Once assembled, they function no differently than any other firearm.

The Act's plain text compels treating them as firearms. Congress in 1968 was just as aware as it is today of the demand for untraceable firearms by unqualified or unscrupulous individuals, and of the willingness of weapons manufacturers to engage in innovations to meet that demand and turn a profit. It thus defined the term "firearm" broadly, so that the statutory definition would encompass not only the types of firearms known to Congress at the time, but also future efforts to exploit loopholes in federal law. Specifically, that definition covers "any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive," and "the frame or receiver of any such weapon." 18 U.S.C. § 921(a)(3)(A), (B).

The key phrase of that definition is "designed to or may readily be converted." And the key words of that phrase are "readily" and "converted." Because the GCA does not provide statutory definitions of those terms, they should be "interpreted as taking their ordinary . . . meaning . . . at the time Congress enacted the statute." *Wis. Cent. Ltd. v. United States*, 585 U.S. 274, 284 (2018) (quoting *Perrin v. United States*, 444 U.S. 37, 42 (1979)).

Overwhelmingly, dictionaries from the 1960s defined "readily" to mean "with fairly quick efficiency," *Webster's Third New International Dictionary of the English Language Unabridged* 1889 (1966) ("*Webster's Third*"), or "promptly; quickly; easily," *The Random House Dictionary of the English Language* 1195 (1966) ("*Random House*"). And they defined "convert" chiefly as "to change or turn from one state to another" or to "transform" or "transmute." *Webster's Third* 499. Under these definitions, when an amateur working at home *transforms* a weapon parts kit from an unfinished, disassembled state into a finished state *with fairly quick efficiency* and *a fair degree of ease*, that person "readily . . . convert[s]" the kit into a weapon that "expel[s] a projectile by the action of an explosive" within the meaning of the GCA. 18 U.S.C. § 921(a)(3)(A).

Contrary to Respondents' assertions, the 1960s definitions of "convert" were not limited to swapping out an existing function in a finished product for another, but instead included the act of creating, manufacturing, completing, or adding functionality in the first place: "sheepskins are converted into parchment," *Webster's Third* 499, "[t]he [tree] trunk is often converted into canoes," 2 *The Oxford English Dictionary* 944 (1st ed. 1933). Other contemporaneous sources used "convert" in a similar fashion: for example,

"[e]ight or ten hours of hand labor on the part of the buyer will *convert* this kit into a workable stove," A.M. Zarem et al., *Introduction to the Utilization of Solar Energy* 224 (1963) (emphasis added). In contrast, the narrower and less common definition of "convert" that Respondents urge this Court to adopt—"exchange for an equivalent"—was exclusively used by 1960s dictionaries to describe conversions of currency in the valuative or financial, as opposed to physical, sense.

Respondents' attempts to ascribe a narrow meaning to the terms "frame" and "receiver" in the GCA fare no better. Dictionaries from the 1960s with firearm-specific definitions for "frame" and "receiver" consistently defined those terms as "the basic unit of a handgun which serves as a mounting for the barrel and operating parts of the arm," *Webster's Third* 902 (defining "frame"), or "the metal frame in which the action of a firearm is fitted and to which the breech end of the barrel is attached," *id.* at 1894 (defining "receiver"). These definitions say nothing about the "completeness" of a "frame" or "receiver," nor do they require it to be ready-to-use. They plainly would have encompassed a frame or receiver that was missing just a few drill holes, or that required the removal of just a few plastic tabs, or that could be readily assembled from a kit containing all the key parts. Indeed, the definitions focus on the *purpose* that the "frame" or "receiver" serves and the *manner* in which it is used: as the basic skeleton of a firearm to which other parts are attached to create a functional machine.

The history of the GCA confirms what its text makes clear: the Act applies to the weapon parts kits and frames and receivers described in ATF's Rule. The Gun Control Act of 1968 was passed to address the growing problem of unregulated access to mail-order guns. After a mail-order gun was used to assassinate

President John F. Kennedy, Congress held hearings on these weapons and called for an end to the "interstate mail-order traffic in murderous weapons" and the "no questions asked" approach that allowed disqualified purchasers to obtain firearms anonymously without complying with any kind of licensing requirements. *Interstate Shipment of Firearms: Hearings on S. 1975 and S. 2345 Before the S. Comm. on Com.*, 88th Cong. 11, 26 (1964). After the subsequent assassinations of the Reverend Dr. Martin Luther King, Jr., and Senator Robert F. Kennedy in 1968, Congress finally updated the definition of "firearm" to close what President Lyndon B. Johnson called "the brutal loopholes in our laws" that permitted disqualified purchasers to engage in "mail-order murder." 114 Cong. Rec. at 16301 (1968).

Three aspects of the amendment of this definition deserve special attention. First, when Congress defined the term "firearm" to include "starter guns," it used the term "starter gun" in a capacious sense, understanding that major parts of starter guns could be turned into deadly weapons even when shipped separately from the rest of the pistol, and that myriad methods could be used to convert such parts into functional firearms. Second, as long as the device or set of parts was "designed to or [could] readily be converted" into a firearm, Congress did not care about the precise method of conversion or what the item looked like prior to the conversion; rather, Congress used broad language to capture future innovations in firearm technology and attempts to evade regulation. Third, although Congress replaced the language "any part or parts" of a firearm with "the frame or receiver of any such weapon" in the GCA, that change was not an attempt to narrow federal firearms laws or exclude vital parts of firearms from regulation. Instead, seeking to

balance the practicalities of enforcement with the need for broad language to prevent the abuse of loopholes, Congress chose to target the major parts of firearms.

Ultimately, when properly viewed in the context of the GCA's text and history, it is clear that the 1968 update to the definition of "firearm" was part of a larger scheme designed to crack down on gun manufacturers who seek to cash in on the benefits of selling firearms while evading regulation. This Court should respect the scheme Congress put in place by applying the plain text of the law Congress passed.

ARGUMENT

I. ATF's Rule Is Lawful Under the Ordinary Public Meaning of the Definition of "Firearm" in the Gun Control Act.

A. Weapon Parts Kits

Enacted in 1968, the GCA defines a "firearm" as "any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive." 18 U.S.C. § 921(a)(3)(A). If the "weapon parts kit[s]" covered by ATF's regulation, 27 C.F.R. § 478.11, are "designed to or may readily be converted to expel a projectile by the action of an explosive" within the meaning of the GCA, 18 U.S.C. § 921(a)(3)(A), the rule must be upheld as consistent with the authorizing statute.

1. Because the words "readily" and "converted" are "undefined in [the] statute," they should be given their "ordinary meaning" at the time of the statute's enactment. *Taniguchi v. Kan Pac. Saipan, Ltd.*, 566 U.S. 560, 566 (2012). This "fundamental canon of statutory construction," *Perrin*, 444 U.S. at 42, avoids judicial amendment of legislation "outside the 'single, finely wrought and exhaustively considered,

procedure' the Constitution commands." *New Prime Inc. v. Oliveira*, 586 U.S. 105, 113 (2019) (quoting *INS v. Chadha*, 462 U.S. 919, 951 (1983)). And to identify the ordinary public meaning of a statutory term or phrase, this Court typically begins with "[d]ictionaries from the era of [the statute]'s enactment." *Sandifer v. U.S. Steel Corp.*, 571 U.S. 220, 227 (2014).

In this case, leading dictionaries from the relevant period uniformly defined "readily" to mean "with fairly quick efficiency : without needless loss of time : reasonably fast : speedily," and "with a fair degree of ease : without much difficulty : with facility : easily." *Webster's Third* 1889; *see also, e.g.*, *Random House* 1195 ("promptly; quickly; easily"); *The American Heritage Dictionary of the English Language* 1085 (1969) ("*American Heritage*") ("[p]romptly," "[e]asily"). None of these definitions specify that an act must be completed within a particular timeframe to be "readily" performed; they merely emphasize that some degree of quickness and ease, as compared to other lengthier or more involved processes, must be involved.

For instance, one contemporaneous dictionary provided the example, "information can when needed be readily acquired by consulting appropriate books." *Webster's Third* 1889. Of course, the act of consulting appropriate books for information requires tracking down the appropriate books and synthesizing their content—it may be a quick process, but it is not instantaneous. Still, according to *Webster's*, information is "readily" acquired if any person with basic research and reading comprehension skills can obtain it in this fashion—that is, without expending significant time and effort.

Meanwhile, leading dictionaries from the relevant period chiefly defined "convert" as "to change or turn from one state to another : alter in form, substance, or

quality : transform, transmute." *Webster's Third* 499. Dictionary after dictionary provided some iteration of this definition first for "convert" (except those that started with the concept of converting from one religion to another—obviously irrelevant here). *See, e.g.*, *Webster's New World Dictionary of the American Language* 323 (1st college ed. 1953) ("*Webster's New World*") ("to change; transform; turn; transmute: as, *convert* grain into flour"); *Random House* 320 ("to change (something) into something of a different form or properties; transmute; transform); *American Heritage* 291 ("[t]o change into another form, substance, state, or product; transform; transmute"). These sources establish that the most common usage of "convert" in the 1960s was to describe the act of changing something or turning it from one state to another—including from an incomplete state to a complete state.

Indeed, the contemporary meaning of "convert" was not limited to swapping out an existing function in a finished product for another, but instead included the act of creating, manufacturing, completing, or adding functionality in the first place. While this notion is plainly encompassed by the expansive concepts of "changing," "transforming," or "transmuting," several dictionaries from the 1960s also included language in their entries for "convert" that made it even more explicit: "to turn to . . . a particular use or purpose," *Random House* 320, or "to alter for more effective utilization," *Webster's New Collegiate Dictionary* 183 (7th ed. 1963).

Many dictionaries also included concrete examples illustrating that a "conversion" occurs when an unfinished product is transformed into a finished product or provided with new functionality. For instance, "sheepskins are converted into parchment," or one may "convert paper into envelopes or paperboard into cartons."

Webster's Third 499; *see also Webster's New World* 323 ("*convert* grain into flour"); 2 *The Oxford English Dictionary* 944 (1st ed. 1933) ("[t]he [tree] trunk is often *converted* into canoes" (emphasis added)).

Other contemporaneous sources similarly used the term "convert" to describe the transformation from one state to another through the act of completing or assembling. A 1963 textbook on emerging solar energy technologies described a "simple do-it-yourself kit with all the essential parts for a [solar] stove," noting that "[e]ight or ten hours of hand labor on the part of the buyer will *convert* this kit into a workable stove." A.M. Zarem et al., *Introduction to the Utilization of Solar Energy* 224 (1963) (emphasis added). A vocational bulletin for farmers put out by the state of Texas in the years leading up to the GCA's enactment explained how "odds and ends from an automobile junk heap" were collected by farmers, allowing them to "*convert* these parts into a post hole digger" for constructing fences. Tex. Educ. Agency, Bull. No. 522, *Texas Veteran Farm Shop* 7 (1951) (emphasis added).

Judicial decisions from around 1968 also underscore that the word "convert" applies to the act of transforming an unfinished product into a finished state or otherwise assembling a set of parts. In one case, the Fourth Circuit affirmed that a partially disassembled illegal still (a device used for making hard alcohol) with hot mash in it was properly considered a "still." The court of appeals explained that "[t]he [district] court found, rightly, that the fact that certain necessary parts had been temporarily removed and hidden nearby did not *convert* the apparatus from a still to something else." *Guy v. United States*, 336 F.2d 595, 597 (4th Cir. 1964) (per curiam) (emphasis added). In other words, notwithstanding the state of disassembly, the still was "readily capable of being set

up in an operating state," and thus it was still appropriately deemed a "still" within the meaning of the governing statute. *Id.* at 596. Other cases from around the time of the GCA's enactment used the term "convert" in a similar fashion. For instance, one judge considered during a sentencing hearing the fact that the defendant had disassembled a mop, concealed it in his prison cell, and "worked upon [it] in such fashion as to *convert* the pieces to a weapon." *People v. Edgett*, 197 N.W.2d 525, 527 (Mich. Ct. App. 1972) (emphasis added).

Considered together, these sources make clear that when one "converts" something or a set of things into something else, that item or set of items undergoes a transformation. *See, e.g.*, *Webster's Third* 499 (using "transform" in the leading definition of "convert"); *Random House* 320 (same); *American Heritage* 291 (same). Thus, under the ordinary, contemporaneous meanings of "readily" and "convert," when an amateur working at home *transforms* a weapon parts kit from an unfinished, disassembled state into a finished state *with fairly quick efficiency* and *a fair degree of ease*, that person "readily . . . convert[s]" the kit into a "firearm" within the meaning of the GCA. 18 U.S.C. § 921(a)(3)(A). Indeed, those "80 percent finished" parts kits (among others) contemplated by ATF's Rule are much further along in their "conver[sion]" process—that is, closer to being usable "firearms"—than sheepskins are to being parchment, or trees are to being canoes, or disassembled mop parts are to being weapons.

2. In their briefs in support of certiorari, Respondents do not engage with the definition of "readily," nor do they dispute that "'[c]onvert' *can* refer to manufacturing." VanDerStok Br. in Support of Cert. 17. Instead, they urge this court to eschew the leading (and

broad) definition of "convert" for a narrower one that better suits their purposes: to "exchange for an equivalent." *Id.* (quoting *Convert*, Merriam-Webster.com Online Dictionary, https://bit.ly/47FxhYm (last visited Mar. 4, 2024)). According to this definition, they say, "convert" is limited to the act of exchanging "one finished product to another." *Id.*; *see also id.* at 16 (arguing that the GCA only "captures nonfunctional but complete firearms" such as "malfunctioning," "intentionally disabled," or "temporarily disassembled" firearms").

Dictionaries from the 1960s belie this assertion: while they do include the concept of "exchang[ing] for an equivalent" (typically as the fifth, sixth, or even seventh-listed definition of "convert"), they consistently provide examples for this definition that limit it to conversions of the financial or valuative sense, as opposed to the physical sense. For instance, *Webster's Third* states: "to exchange for a specified equivalent (*convert stock holdings into cash*)." *Id.* at 499 (emphasis added). *Random House* provides "to exchange for an equivalent: *to convert bank notes into gold*." *Id.* at 320. Even the modern online dictionary cited by Respondents contains two examples along these lines: "*convert* foreign currency into dollars" and "*convert* a bond." *Convert*, Merriam-Webster.com Online Dictionary, https://www.merriam-webster.com/dictionary/convert (June 4, 2024).

The act of constructing a firearm from a build-your-own-gun kit is certainly more akin to turning sheepskin into parchment than exchanging pesos for dollars—it is a physical, not a valuative, conversion that the kit undergoes. In fact, even the statutory example of a "starter gun" that Respondents invoke does not fit the mold of "exchanging for an equivalent." After all, the act of converting a starter gun into a pistol

that shoots live ammunition is more akin to assembly or restoration than trading something in for an equivalent item. *See infra* part II.B. Respondents' attempt to rely on a narrower and less common definition of "convert" is thus belied by both ordinary usage and statutory text.

In a similar line of argument, Respondents also assert that because "convert" modifies the term "weapon" in the GCA, *see* 18 U.S.C. § 921(a)(3)(A), an item must be "*already a weapon* that can be 'converted' into a firearm" to qualify as a firearm under the statute. VanDerStok Br. in Support of Cert. 23. But again, the "starter gun" example provided in the statutory text belies this assertion. Before it undergoes a conversion, a starter gun is simply a device for signaling the beginning of a race—not an "an instrument of offensive or defensive combat" or "something to fight with," *Webster's Third* 2589 (defining "weapon"). An unmodified starter gun is no more a "weapon" than any other piece of metal—a spoon or a fork. Thus, Respondents' interpretation of the GCA excludes from the statute's scope the sole concrete example of a "firearm" provided by Congress. That cannot possibly be.

3. The court below, for its part, did not engage with the ordinary public meaning of "readily" or "convert" in the GCA at all. Instead, it looked at the verbs included alongside "convert" in ATF's 2022 regulation—"completed," "assembled," and "restored"—and decided that those terms do not cover the "full transformation actually required by these parts kits." Pet. App. 25a. Then, "[r]eading 'converted' in conjunction with the other listed verbs," the court decided that "convert," as used in the GCA, necessarily must "contemplate[] less drastic measures" than the Government ascribes to it. *Id.*

This is a misguided approach to statutory interpretation on multiple levels. First, the court below misunderstood the task before it: its job was simply to decide whether the acts of "complet[ing]," "assembl[ing]," and "restor[ing]" the "weapon parts kit[s]" covered by ATF's Rule, 27 C.F.R. § 478.11, are consistent with the act of "convert[ing]" covered by the GCA, 18 U.S.C. § 921(a)(3)(A). They are. Each of these terms fits comfortably within the ordinary meaning of "convert" because they describe a "change" from one "state" or "form" "to another." *Webster's Third* 499; *see also* Pet. Br. 20 (citing dictionary definitions for "complete," "assemble," and "restore").

That should have been the end of the court's inquiry. In the context of a facial challenge, the court below should not have engaged in speculation about whether the parts kits that it viewed ATF's Rule as targeting *in fact* require a more "full transformation" than that covered by the regulation. Pet. App. 25a. As Petitioners point out, "[i]f ATF ever sought to apply the Rule to a parts kit that could not readily be converted into a functional firearm, the affected parties would be free to challenge that action as beyond ATF's statutory authority." Pet. Br. 27.

Second, the court's exercise of reading additional verbs that appear in the regulation—but not the statute—to limit the meaning of the term "convert" as used in the statute is completely divorced from standard principles of statutory interpretation. *Compare* 27 C.F.R. § 478.11 (the term "firearm" "shall include a weapon parts kit that is designed to or may readily be completed, assembled, restored, or otherwise converted to expel a projectile by the action of an explosive"), *with* 18 U.S.C. § 921(a)(3)(A) ("the term firearm means . . . any weapon (including a starter gun) which will or is designed to or may readily be converted to

expel a projectile"). "Convert" in the GCA should simply take its ordinary public meaning, and that ordinary public meaning is broad enough to cover the verbs (including the verb "convert" itself) used in ATF's Rule.

4. The court below also erred by focusing its analysis on other statutory provisions that do *not* appear in the relevant provision of the GCA, rather than engaging in a straightforward analysis of the ordinary public meaning of the phrase "readily be converted" at the time the GCA was enacted. *Cf. Bostock v. Clayton County*, 590 U.S. 644, 674 (2020) ("[W]hen the meaning of the statute's terms is plain, our job is at an end."). The court emphasized that the GCA's predecessor statute included the phrase "any part or parts of" a firearm—language Congress removed in 1968, and that ATF was not authorized to reinsert fifty years later. Pet. App. 20a (quoting Federal Firearms Act of 1938, Ch. 850, Pub. L. No. 75-785, 52 Stat. 1250, 1250 (repealed 1968)). That is not wrong, but it is irrelevant to this case: ATF's 2022 rule does not regulate "minute weapon parts" like the predecessor statute did, *id.* at 27a; rather, it regulates "weapon parts kit[s]," *i.e.*, the aggregation of separate parts that are designed to or may be readily assembled "to expel a projectile by the action of an explosive," 27 C.F.R. § 478.11. In other words, ATF's 2022 rule regulates weapon parts *kits*—a narrower class than that of *all individual weapon parts* regulated by the predecessor statute.

Similarly, the court below concluded that the use of alternative language in other sections of federal firearms laws suggests that Congress did not mean what it said in 18 U.S.C. § 921(a)(3)(A)'s definition of "firearm." Citing, among other provisions, the definition of "destructive device," the court decided that Congress "knows how to regulate 'parts' of weapons when it so

chooses." Pet. App. 21a (quoting 18 U.S.C. § 921(a)(4)(C), which defines "destructive device" to include "any combination of parts either designed or intended for use in converting any device into any destructive device . . . and from which a destructive device may be readily assembled").

But that comparison is inapt. First, Congress chose different language for the definitions of "destructive device" and "firearm" because the definitions have different scopes: Congress defined "destructive devices" to include parts used to *convert* an item into a "destructive device" even if the part is not ultimately integrated into the device, whereas the definition of "firearms" includes only those weapons, including parts kits, that are *themselves* integrated into the final product. *See* 18 U.S.C. § 921(a)(3)(A). ATF's 2022 rule regulating "weapon parts kit[s]" is consistent with the definition of "firearm"—it in no way attempts to sweep in devices that only are used to effectuate the conversion as the statutory definition of "destructive device" does.

Second, even assuming that Congress did use distinct language to describe something analogous to weapon parts kits in another statutory section, that does not give this Court license to alter or narrow the plain meaning of "readily be converted." 18 U.S.C. § 921(a)(3)(A). As this Court has explained, "the mere possibility of clearer phrasing cannot defeat the most natural reading of a statute; if it could (with all due respect to Congress), we would interpret a great many statutes differently than we do." *Caraco Pharm. Lab'ys, Ltd. v. Novo Nordisk A/S*, 566 U.S. 399, 416 (2012); *compare Bostock*, 590 U.S. at 674 (majority opinion) (refusing to derive meaning from the absence of express language covering "sexual orientation" in Title VII where the plain meaning of the statutory

language was broad enough to cover "sexual orientation" discrimination), *with id.* at 791 & n.5 (Kavanaugh, J., dissenting) ("when Congress wants to prohibit sexual orientation discrimination in addition to sex discrimination, Congress explicitly refers to sexual orientation discrimination"). Indeed, because the definition of "firearm" already covers combinations of parts that "may readily be converted to expel a projectile by the action of an explosive," 18 U.S.C. § 921(a)(3)(A), it would have been redundant to add that "combination of parts" language used elsewhere to the statutory definition.

Accordingly, the ordinary public meaning of the GCA's definition of firearm unambiguously covers "weapon parts kit[s]" that are "designed to or may readily be completed, assembled, restored, or otherwise converted to expel a projectile by the action of an explosive." 27 C.F.R. § 478.11. And "[w]hen the words of a statute are unambiguous, then, this first canon is also the last: 'judicial inquiry is complete.'" *Conn. Nat'l Bank v. Germain*, 503 U.S. 249, 254 (1992) (quoting *Rubin v. United States*, 449 U.S. 424, 430 (1981)).

B. Partially Complete or Nonfunctional Frames or Receivers

The GCA also defines a firearm's "frame or receiver" as a "firearm" itself subject to federal requirements. 18 U.S.C. § 921(a)(3)(B). ATF's rule properly construes the term "frame or receiver" as covering "a partially complete, disassembled, or nonfunctional frame or receiver, including a frame or receiver parts kit, that is designed to or may readily be completed, assembled, restored, or otherwise converted to function as a frame or receiver." 27 C.F.R. § 478.12(c). Again, a straightforward analysis of the ordinary meaning of the terms "frame" and "receiver" at the time of the GCA's enactment compels this conclusion.

1. The words "frame" and "receiver" in 18 U.S.C. § 921(a)(3)(B) do not include a statutory definition, and thus should be construed "as taking their ordinary, contemporary, common meaning . . . at the time Congress enacted the statute.'" *Wis. Cent. Ltd.*, 585 U.S. at 284 (quoting *Perrin*, 444 U.S. at 42). Under the ordinary meaning of the terms "frame" and "receiver" at the time of the statute's enactment, those terms plainly would have encompassed a frame or receiver that was missing just a few holes, or one that required the removal of just a few plastic tabs, or one that could be readily assembled from a kit containing all the necessary parts.

Minor aspects of incompletion do not render a frame or receiver covered by ATF's rule any less a "frame" or "receiver" under the ordinary meaning of these terms. Consistently, dictionaries from the 1960s with firearm-specific definitions for "frame" and "receiver" defined those terms as "the basic unit of a handgun which serves as a mounting for the barrel and operating parts of the arm," *Webster's Third* 902 (defining "frame"), or "the metal frame in which the action of a firearm is fitted and to which the breech end of the barrel is attached," *id.* at 1894 (defining "receiver"); *see also, e.g.*, *Random House* 1198 (defining "receiver" as "the basic metal unit housing the action and to which the barrel and other components are attached").

None of these definitions says anything about the "completeness" of a "frame" or "receiver" or requires a "frame" or "receiver" to be ready-to-use without any further assembly or modification. Instead, the definitions focus on the purpose that the "frame" or "receiver" serves and the manner in which it is used: as the basic skeleton of a firearm to which other parts are attached to create a functional machine.

Other contemporaneous and analogous definitions of "frame" reinforce this point. For instance, one leading 1960s dictionary defined a "frame" as "the constructional system that gives shape or strength (as to a building)," providing the example "the frame of the roof had begun to sag." *Webster's Third* 902. When walking past a construction site containing most of a house's roof frame, it would be perfectly natural to refer to that structure as the "frame," even if it was still missing one or two rafters, or even if certain rafters required further trimming for proper alignment to support the roof boards. So too for Respondents' frame and receiver kits. In fact, Respondents' own websites refer to their frame and receiver kits as "80% frames" or "80% receivers," or even just "frames" and "receivers." *See, e.g.*, *Pistol Frame and Jigs*, Polymer80, https://polymer80.com/pistols/frameandjig/ (last visited June 12, 2024); *GST-9*, 80% Arms, https://www.80percentarms.com/gst-9/ (last visited June 12, 2024).

2. In arguing otherwise, Respondents repeatedly cite the statement by the court below that "a part cannot be both *not yet* a receiver and a receiver at the same time." *See, e.g.*, VanDerStok Br. in Support of Cert. 13 (quoting Pet. App. 18a). That may be true, but it misunderstands how the 2022 Rule operates: the Rule simply defines the point in the manufacturing process at which something that is not yet a receiver *becomes* a receiver. It may define that point earlier than Respondents would like, but because it does so in a manner consistent with the contemporary, ordinary meaning of the terms "frame" and "receiver," it is entirely consistent with the GCA.

And because the ordinary meaning of the terms "frame" and "receiver" is broad enough to include those frame and receiver parts kits and partially complete,

disassembled, or nonfunctional frames and receivers covered by ATF's rule, Respondents are wrong to focus on what the court below deemed the more "flexible language" in 18 U.S.C. § 921(a)(3)(A) (defining "firearm" to include weapons that are "designed to or may readily be converted" into firearms) that is absent from 18 U.S.C. § 921(a)(3)(B) (defining "firearm" as a "frame or receiver"). Congress simply did not have to add that "flexible language" to subsection (B) because the ordinary meaning of "frame" and "receiver" was already broad enough to cover the frames and receivers encompassed by ATF's regulation.

What Respondents really want is for this Court to narrow the text Congress enacted by reading some unwritten phrase like "fully operational" into it. Time and again, this Court has rejected invitations of this sort. *See, e.g.*, *Bissonnette v. LePage Bakeries Park St., LLC*, 601 U.S. 246, 256 (2024) (refusing to read a narrowing "transportation industry" requirement into the statutory text of the FAA's transportation worker exemption); *Muldrow v. City of St. Louis*, 144 S. Ct. 967, 976 (2024) ("[W]e will not 'add words to the law' to achieve what some employers might think 'a desirable result.'" (quoting *EEOC v. Abercrombie & Fitch Stores, Inc.*, 575 U.S. 768, 774 (2015)). Respondents are stuck with the ordinary public meaning of "frame" or "receiver" in 1968, and that meaning plainly covers those disassembled or partially complete frames and receivers and kits covered by the 2022 Rule.

3. The court below paid lip service to the importance of hewing to the contemporaneous, ordinary public meaning of the GCA, but it made a hash of that analysis as applied to the terms "frame" and "receiver." Invoking the well-established rule that "[w]ords generally should be interpreted as taking their ordinary meaning at the time Congress enacted

the statute," Pet. App. 16a (quoting *New Prime*, 586 U.S. at 113), the court accused ATF of "purport[ing] to expand the terms 'frame' and 'receiver,' as they were understood in 1968, to include changes in firearms in modern times," *id.*

That gets the analysis exactly backwards: what matters is not that the "partially complete, disassembled, or nonfunctional frame or receiver[s]" covered by ATF's rule did not exist in 1968; what matters is that the ordinary meaning of the term "frame or receiver" in 1968 was broad enough that it would have covered them *had they existed then*. That is precisely the teaching of this Court's decision in *Bostock*. There the Court held that Title VII's prohibition on certain employment actions "because of 'sex'" covered actions taken on the basis of peoples' sexual orientations or gender identities. *Bostock*, 590 U.S. at 683-84. That Congress may not have expressly contemplated such coverage at the time it enacted Title VII was irrelevant. As this Court explained, "'the fact that [a statute] has been applied in situations not expressly anticipated by Congress' does not demonstrate ambiguity; instead, it simply 'demonstrates [the] breadth' of a legislative command." *Id.* at 674 (*quoting Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 499 (1985)); *see also Pa. Dep't of Corr. v. Yeskey*, 524 U.S. 206, 212 (1998) ("[I]n the context of an unambiguous statutory text," the fact "that Congress did not 'envisio[n] that the ADA would be applied to state prisoners'" is "irrelevant."). The same logic applies here: though Congress might not have contemplated the sophisticated modern parts kits at issue in this case when it passed the GCA in 1968, it chose language whose ordinary meaning then (and now) is broad enough to extend to those products. That is enough to resolve this case.

* * *

In sum, the ordinary public meaning of the relevant terms of the GCA in 1968 compels the conclusion that ATF's 2022 Rule is consistent with the authorizing statute. And, as the next section explains, the history of the GCA only confirms what the text of the law makes clear.

II. ATF's Rule Is Consistent with the History of the Gun Control Act.

A. Congress Passed the Gun Control Act to End Licensing-Requirement Loopholes that Allowed Disqualified Individuals to Purchase Firearms.

The Gun Control Act of 1968 was passed in response to one central issue: unregulated access to mail-order guns. After it was revealed that Lee Harvey Oswald had bought the gun used to assassinate President Kennedy through a mail-order catalogue using a fake name and P.O. Box address, with no review of his qualifications to purchase a firearm, the public was outraged. In response to this public outrage at the fact that mail-order catalogues could be used to circumvent requirements for firearm purchasers, Congress called multiple hearings specifically on the issue of mail-order guns. *Interstate Shipment of Firearms: Hearings on S. 1975 and S. 2345 Before the S. Comm. on Com.*, 88th Cong. (1964).

During those hearings, Senator Thomas J. Dodd, who would become the chief architect of the GCA, noted that Oswald's use of a fake name and P.O. Box address was typical of a broader epidemic of potentially disqualified persons anonymously obtaining firearms through the mail. He explained that "[d]uring 1963, approximately 1 million dangerous weapons were ordered through the mails and . . . delivered to persons with criminal records." *Id.* at 10. In fact,

"[t]wenty-five percent of all recipients of mail-order guns [in the District of Columbia] had criminal records," a staggering figure that showed the extent to which mail-order guns could be used to evade federal firearms laws. *Id.* at 11.

Thus, the "question before [the] nation," was "whether this interstate mail-order traffic in murderous weapons should continue completely uncontrolled, or whether reasonable controls should be instituted." *Id.* Congress chose "reasonable controls" that would end the "no questions asked" approach that allowed disqualified purchasers to obtain weapons without any kind of checks or licensing requirements. *Id.* at 26 (statement of Senator Birch Bayh). This idea was the germ of the GCA—the non-negotiable point on which "[a] Nation aroused and demanding effective control because of the tragic event of the recent past" called for action. *Id.* at 9 (statement of Sen. Magnuson); *see* H.R. Rep. No. 90-1577, at 20 (1968) (letter from Attorney General Ramsey Clark citing the 1963-1964 Committee on Commerce hearings as part of the "extensive background" of factual findings informing the GCA).

A few years later, two more national tragedies finally spurred Congress to pass the GCA. After Dr. Martin Luther King, Jr., was assassinated, Senator Dodd exclaimed that "[a]gainst the background of the recent assassination of Dr. King," he "fail[ed] to understand how any one can rationalize or justify an omission which makes possible the sale of a gun to a felon." 114 Cong. Rec. at 13323 (1968). And, weeks later, mere hours after Senator Robert F. Kennedy's death at the hands of an assassin who was legally disqualified from purchasing a firearm yet used a gun privately purchased and "normally sold through the mail," the House convened to discuss the urgent need for gun control legislation. Wayne King, *Congress*

Expected to Hold Gun Curb to 'Saturday Night Specials,' N.Y. Times (Sept. 28, 1975), https://www.nytimes.com/1975/09/28/archives/congress-expected-to-hold-gun-curb-to-saturday-night-specials.html.

These tragic circumventions of law—three assassinations committed by people who Members of Congress argued should never have been sold a gun in the first place and whose credentials to purchase a gun were never examined—became the driving theme of the debate. The morning after Senator Kennedy's shooting, Representative Boland spoke at length about the three assassinations, emphasizing how all three might have been prevented with stronger gun-control laws. 114 Cong. Rec. at 16292. He concluded that the circumstances of these assassinations "make clear how easy it is for anyone—a lunatic, a confirmed criminal, a heroin addict, a mental defective—to buy and use firearms in the United States." *Id.* Finally, President Lyndon B. Johnson submitted a written statement to be read into the Congressional Record calling for the closure of "the brutal loopholes in our laws" that permitted disqualified purchasers to engage in "mail-order murder." *Id*. at 16301. The legislation defining the term "firearm" that would be incorporated into the GCA passed in the House that same day.[2]

The Senate Judiciary Committee Report on the final language of the GCA further emphasized the need

---

[2] The GCA's final definition of "firearm" was initially passed as a part of the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90-351, 82 Stat. 197, 227, but before the Omnibus took effect, the Gun Control Act of 1968, Pub. L. 90-618, 82 Stat. 1213, imported the Omnibus's definition of "firearm." *See* H.R. Rep. No. 90-1577, at 10. The GCA was deliberately scheduled to take effect at the same time as the Crime Omnibus so that the Crime Omnibus's provisions would be seamlessly incorporated into the GCA. *See* S. Rep. No. 90-1501, at 21 (1968).

for broadly worded legislation to prevent the circumvention of gun laws by disqualified purchasers. The Report explained that traffic in untraceable mail-order guns "affords circumvention and contravention of State and local laws governing the acquisition of firearms." S. Rep. No. 90-1501, at 23 (1968). The "ready availability, minimal cost and anonymity of purchase" typical of mail-order firearms, it continued, have led to "an ever-increasing abuse of this source of firearms by juveniles, minors, and adult criminals." *Id.* Therefore, the GCA was written to curb practices that allowed these individuals to "thwart the effectiveness" of existing gun laws. *Id.* at 27. As the House Judiciary Committee Report on the GCA explained, the law "responds to widespread national concern that existing Federal control over the sale and shipment of firearms [across] State lines is grossly inadequate." H.R. Rep. No. 90-1577, at 7.

B. The Gun Control Act's "Firearm" Definition Was Broadly Worded to Cover Parts Kits and Incomplete or Nonfunctional Major Firearm Parts.

In passing the GCA, Congress also sought to prevent circumvention of the law through the sale of isolated major parts and other forms of incomplete firearms that were nonetheless readily converted into functional weapons.

From the start of the debates, Congress was concerned about sellers and purchasers evading licensing requirements by selling firearms that were carefully altered just enough to avoid the statutory definition of "firearm." For instance, in the 1963-1964 hearings on mail-order firearms, Senator Bayh spoke at length about the troubling issue of "shrewd" vendors who "bring these weapons into the country and tranship many of them as junk." *Interstate Shipment of*

Firearms: Hearings on S. 1975 and S. 2345 Before the S. Comm. on Com., 88th Cong. 33 (1964). "[O]n some occasions," the Senator explained, "the barrel of these weapons would have a small weld or a small bead of weld in them that for all intents and purposes, according to the national firearms law, it enables them to circumvent the provisions of it," and then, upon chiseling, reassembly, or combination with other parts, "you have a lethal weapon." *Id.*

Congress thus amended the statutory definition of "firearm," using broad language that brought weapon parts kits, incomplete firearms, and nonfunctional frames and receivers under the sweep of existing law. The language Congress ultimately landed on, codified at 18 U.S.C. § 921(a)(3) today, defined the term "firearm" to include "any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projective by the action of an explosive" or "the frame or receiver of any such weapon." Three aspects of Congress's revision of this definition deserve special attention.

First, Congress used the term "starter gun" (traditionally, pistols that fire blanks to signify the start of a track event) in a capacious sense. Repeatedly, Members of Congress used the term in discussing sets of parts that required various amounts of work to be converted into functional firearms. For instance, the 1966 Senate Judiciary Committee Report on an earlier proposed version of the GCA described one type of "starter pistol," which "was imported into New York with a plugged barrel," and then "[s]eparate shipments of rifled barrels followed which were used to replace the plugged barrels" and create a deadly weapon. S. Rep.

No. 89-1866, at 65 (1966).[3] Though neither a plugged barrel nor a detached barrel is a weapon in and of itself, the authors of the GCA emphasized that these independently innocuous major parts could be converted into a firearm, and sought to classify such shipments as "starter guns."

Second, despite the unique challenges posed by starter guns, Congress recognized that the problem of innovation around gun-control laws extended beyond starter guns and might take new forms in the future. It thus chose broad language—"is designed to or may readily be converted"—when it amended the definition of "firearm," rather than merely adding the term "starter gun" to the statutory definition. This broad language would sweep in any kind of "converting." Indeed, Congress described how starter pistols themselves could be converted into deadly weapons through a variety of different methods. *See id.* at 73 ("boring a hole through an obstruction in the barrel," "substitution of a barrel which will permit the firing of a projectile," or "other[]" means of altering the device). At bottom, Congress did not care about the precise method of conversion or what the converted firearm looked like prior to the conversion. What mattered was preventing the evasion of legal requirements.

---

[3] The bill proposed in 1966 contained a definition of "firearm" that was nearly identical to the one ultimately enacted: "any weapon . . . which will, or is designed to, or which may be readily converted to, expel a projectile or projectiles by the action of an explosive . . . or the frame or receiver of any such weapon." *See* S. Rep. No. 89-1866, at 24. While that particular bill never passed, the Senate Judiciary Report on the final version of the Gun Control Act of 1968 cited the 1966 Report as containing the relevant factual findings motivating the GCA. *See* S. Rep. No. 90-1501, at 23, 28 (1968).

Third, although Congress replaced the language "any part or parts" of a firearm with "the frame or receiver of any such weapon," that change was not an attempt to exclude vital parts of guns from regulation. Rather, in enacting the GCA, Congress sought to balance the practicalities of enforcement with the need for broad language to prevent the abuse of loopholes. *See* H.R. Rep. No. 90-1577, at 10 ("It was found impractical to have controls over each *small* part of a firearm. Thus, this definition includes only the major parts of the firearm, that is, the frame or receiver." (emphasis added)). As discussed above, *see supra* part I.B, Congress did not specify "complete," "intact," or "functional" frames or receivers—to do so would have been contrary to Congress's plan to cut off such loophole abuse.

Indeed, as the 1966 Report states, the "readily be converted" language in the definition of "firearm" was first proposed to *tighten* the law "to prevent circumvention of the purposes of the act." S. Rep. No. 89-1866, at 73. Claiming, as Respondents do, that this definitional update *expanded* gun manufacturers' ability to sell near-complete frames and receivers with no regulation or oversight whatsoever is diametrically opposed to the repeatedly stated objectives of the GCA, as reflected in its text.

* * *

Congress's concern about the trade in weapon components and convertible firearms was entwined with its concern about mail-order firearms—both practices threatened the GCA's goal of closing deadly loopholes in preexisting law. As Senator Dodd observed, precisely because the manufacturers of such weapons argued that their products were not regulated under existing law, "fly-by-nighters" sold them with

impunity to disqualified purchasers. 114 Cong. Rec. at 27464.

This is precisely the business model of Industry Respondents. They sell a kit that requires conversion to render it a functional firearm, or a frame or receiver that is nearly complete, and then claim that they are not subject to any regulation of firearms, not even the requirement that purchasers use their real name. Congress passed the GCA to prevent this sort of evasion of firearm laws—and that is exactly what its plain text does.

CONCLUSION

For the foregoing reasons, this Court should reverse the judgment of the court below.

Respectfully submitted,

ELIZABETH B. WYDRA
BRIANNE J. GOROD*
MIRIAM BECKER-COHEN
NINA HENRY
CONSTITUTIONAL
ACCOUNTABILITY CENTER
1200 18th Street NW, Suite 501
Washington, D.C. 20036
(202) 296-6889
brianne@theusconstitution.org

Counsel for Amicus Curiae

July 1, 2024

* Counsel of Record