

IN THE UNITED STATES SUPREME COURT

NO. 23-2839

TYRONE SCOTT CAMERON,
Petitioner-Plaintiff,

vs.

UNITED STATES OF AMERICA,
Respondent-Defendant.

PETITION FOR WRIT OF CERTIORARI FROM THE EIGHTH CIRCUIT
COURT OF APPEALS
CRIMINAL NO. 4:22-cr-00157-SMR-HCA

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

PETITIONER'S CONVICTION VIOLATES HIS SECOND AMENDMENT RIGHTS TO BEAR ARMS AND POSSESS AMMUNITION AS EXPANDED BY THE COURT IN *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1, 17 (2022).

Authorities:

New York State Rifle & Pistol Ass'n, Inc. v. Bruen, 597 U.S. 1, 17 (2022)

United States v. Rahimi, 61 F.4th 443, 460-61 (5th Cir. 2023), *cert. granted*, 143 S. Ct. 2688 (2023)

United States v. Jackson, 69 F.4th 495, 502 (8th Cir. 2023)

IDENTIFICATION OF THE PARTIES

The Petitioner is TYRONE SCOTT CAMERON. Petitioner is in the custody of the United States Marshals from a sentence imposed in the U.S. District Court for the Southern District of Iowa for the statutory maximum of 120 months, followed by a three-year term of supervised release. The Respondent is the United States of America. On direct appeal, the Eighth Circuit Court of Appeals affirmed Petitioner's conviction and sentence on April 18, 2024.

LIST OF ALL PROCEEDINGS

U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA

On October 18, 2022, an indictment was filed in the Southern District of Iowa, charging Tyrone Scott Cameron with: Felon in Possession of Ammunition in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2). Mr. Cameron was convicted by a jury following a three-day trial. On August 3, 2023, he was sentenced to the statutory maximum of 120 months, followed by a three-year term of supervised release. Mr. Cameron filed timely notice of direct appeal was filed on August 11, 2023.

EIGHTH CIRCUIT COURT OF APPEALS

On April 18, 2024, the Eighth Circuit Court of Appeals affirmed Mr. Cameron's conviction in Eighth Circuit Case No. 23-2839.

OPINION BY THE EIGHTH CIRCUIT COURT OF APPEALS

The opinion entered by the Eighth Circuit Court of Appeals is attached in the Petitioner's Appendix.

BASIS FOR JURISDICTION OF THE IOWA SUPREME COURT

Pursuant to Iowa Code § 602.4102, jurisdiction over this Petition for Writ of Certiorari is conferred as follows:

4. A party to an appeal decided by the court of appeals may, as a matter of right, file an application with the supreme court for further review.

STATUTORY PROVISIONS

18 U.S.C. § 922(g)(1)

18 U.S.C. § 924(a)(2)

STATEMENT OF THE FACTS

On October 18, 2022, an indictment was filed in the Southern District of Iowa, charging Tyrone Scott Cameron with: Felon in Possession of Ammunition in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2). Mr. Cameron was convicted by a jury following a three-day trial and sentenced to the statutory maximum of 120 months, followed by a three-year term of supervised release. A timely notice of appeal was filed on August 11, 2023.

On April 18, 2024, the Eighth Circuit Court of Appeals affirmed Mr. Cameron's conviction and sentence. For purposes of this Petition, the Eighth Circuit Court of Appeals held:

- a. They discerned no plain error in light of *United States v. Jackson*, 69 F.4th 495 (8th Cir. 2023) (concluding that there is no need for felony-by-felony litigation regarding the constitutionality of § 922(g)(1) as-applied to a particular defendant).

- b. Petitioner cannot distinguish his case from *Jackson* solely on the basis that he was convicted of being a felon in possession of ammunition as opposed to being a felon in possession of firearms—the right to possess a firearm implies a corresponding right to possess the ammunition necessary to use it.
- a. *Bruen* did not differentiate between regulations governing ammunition and regulations governing the firearms themselves. Given the coextensive nature of these rights, no plain error can be discerned.

BASIS FOR JURISDICTION IN THE LOWER COURTS

Jurisdiction of the district court was based on 18 U.S.C. § 3231, as Mr. Cameron was charged with an offense against the laws of the United States. The jurisdiction of the Eighth Circuit Court of Appeals was based on 28 U.S.C. § 1291, which provides for jurisdiction over a final judgment from a United States District Court. Final judgment was entered on August 3, 2023, and Mr. Cameron was sentenced to 120 months of imprisonment. A three-year term of supervised release was also imposed. A timely notice of appeal was filed to the Eighth Circuit Court of Appeals on August 11, 2023.

REASONS FOR GRANTING OF WRIT

Petitioner asserts that his conviction violates his Second Amendment right to bear arms and ammunition for such arms. Mr. Cameron interprets *New York State*

Rifle & Pistol Ass'n., Inc. v. Bruen, 597 U.S. 1, 17 (2022) as an expansion of his Second Amendment rights notwithstanding his status as a felon and prohibited person under 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

Mr. Cameron contends that *Bruen* casts into doubt statutory prohibitions on the possession of firearms by felons. Thus, he brings an as-applied challenge to § 922(g)(1) as to the prohibition against possessing only ammunition as charged. Mr. Cameron contends, under *Bruen*'s new burden of proof, that the charge against him, and him alone, should be dismissed because the prosecution has failed to establish a “historical tradition” that supports lifetime criminalization of his possession of ammunition.

Mr. Cameron contends that there appears to be a split in the circuits, or some circuits, regarding the constitutionality of § 922(g)(1) as-applied to particular defendants. In *Brown*, the Fifth Circuit Court of Appeals held that because no binding precedent explicitly holds § 922(g)(1) unconstitutional, and it is not clear whether *Bruen* dictates as such, the defendant was unable to demonstrate plain error. *See U.S. v. Brown*, No. 22-30678, 2024 WL 913370, at *1 (5th Cir. Mar. 4, 2024); *but see U.S. v. Rahimi*, 61 F.4th 443, 460-61 (5th Cir. 2023), *cert. granted*, 143 S. Ct. 2688 (2023) (holding that federal statute prohibiting possession of firearms by someone subject to domestic violence restraining order violates the Second Amendment, as being inconsistent with historical tradition).

On June 21, 2024 this Court decided *United States v. Rahimi*, ____ U.S. ____ (June 21, 2024). In upholding the specific domestic abuse temporary prohibition provided for by 18 U.S.C. Section 922(g)(8) this Court did not specifically address other categories of persons who may be barred from possessing firearms or ammunition, stating however:

While we do not suggest that the Second Amendment prohibits the enactment of laws banning the possession of guns by categories of persons thought by a legislature to present a special danger of misuse, see *Heller*, 554 U. S., at 626, we note that Section 922(g)(8) applies only once a court has found that the defendant “represents a credible threat to the physical safety” of another. §922(g)(8)(C)(i).

United States v. Rahimi, ____ U.S. ____ (June 21, 2024).

The Court further reiterated that: “In fact, our opinion stated that many such prohibitions, like those on the possession of firearms by “felons and the mentally ill,” are “presumptively lawful.” 554 U. S., at 626, 627, n. 26. *Id.*

In *Jackson*, the Eighth Circuit Court of Appeals concluded that § 922(g)(1) was not unconstitutional as-applied to the defendant because of his particular felony convictions. *United States v. Jackson*, 69 F.4th 495, 501-02 (8th Cir. 2023); *see also United States v. Voelz*, 66 F.4th 1155, 1164 (8th Cir. 2023); *United States v. Dunn*, 76 F.4th 1062 (8th Cir. 2023); *United States v. Cunningham*, 70 F.4th 502 (8th Cir. 2023).

The Ninth Circuit Court of Appeals, in *Duarte*, held that the categorical statutory prohibition against the possession of a firearm by a person who had been convicted of an offense punishable by imprisonment for a term exceeding one year, as-applied to the non-violent felon defendant, was not part of a historical tradition that delimited the outer bounds of the Second Amendment right to keep and bear arms. *United States v. Duarte*, No. 22-50048, 2024 WL 2068016 (9th Cir. May 9, 2024). Although not controlling, the United States District Court for the Southern District of Illinois recently found § 922(g)(1) unconstitutional under the Second Amendment, facially and as-applied to the particular defendant. *United States v. Martin*, No. 23-CR-40048-SMY, 2024 WL 728571 (S.D. Ill. Feb. 22, 2024) (Appeal filed by *United States of America v. Robert Martin*, 7th Cir., March 22, 2024 (TEXT NOT AVAILABLE)). The court in *Martin* held that the lifetime disarmament of convicted felons, as imposed by § 922(g)(1), was not rooted in the Nation's history and tradition of regulating firearms. *Martin*, No. 23-CR-40048-SMY, 2024 WL 728571, at *5.

Mr. Cameron interprets Eighth Circuit case law as unclear on whether *Bruen* has been correctly or sufficiently applied to place the burden on the government to show that the felon-in-possession statute is constitutional on its face or as-applied in the context of prohibited persons and ammunition. See *United States v. Jackson*,

85 F.4th 468, 469 (8th Cir. 2023) (Stras, J. dissenting from the denial of rehearing en banc).

The Seventh Circuit Court of Appeals has not decided the constitutionality of § 922(g)(1) post-*Bruen*; however, it did instruct lower courts to conduct a proper analysis of the historical tradition supporting § 922(g)(1). *Atkinson v. Garland*, 70 F.4th 1018, 1023 (7th Cir. 2023). In *Atkinson*, the Seventh Circuit released “[s]everal interrelated and non-exhaustive questions that may help focus the proper analysis...:

1. Does § 922(g)(1) address a general societal problem that has persisted since the 18th Century? If this problem existed during a relevant historical period, did earlier generations address it with similar or materially different means?

2. What does history tell us about disarming those convicted of crimes generally and of felonies in particular? Among other sources, the parties could look to commentary from the Founders, proposals emerging from the states’ constitutional ratifying conventions, any actual practices of disarming felons or criminals more generally around the times of the Founding, and treatment of felons outside of the gun context (to the extent this treatment is probative of the Founders’ views of the Second Amendment). When considering historical regulations and practices, the key question is whether

those regulations and practices are comparable in substance to the restriction imposed by § 922 (g)(1). To answer the question, the district court and the parties should consider how the breadth, severity, and the underlying rationale of the historical examples stack up against § 922(g)(1).

3. Are there broader historical analogues to § 922(g)(1) during the periods that *Bruen* emphasized, including, but not limited to, laws disarming dangerous groups other than felons? The parties should not stop at compiling lists of historical firearms regulations and practices. The proper inquiry, as we have explained, should focus on how the substance of the historical examples compares to § 922(g)(1).

4. If the district court's historical inquiry identifies analogous laws, do those laws supply enough of a historical tradition (as opposed to isolated instances of regulation) to support § 922(g)(1)? On this front, the parties should provide details about the enforcement, impact, or judicial scrutiny of these laws, to the extent possible.

5. If history supports Atkinson's call for individualized assessments or for a distinction between violent and non-violent felonies, how do we define a non-violent or a non-dangerous felony? And what evidence can a court consider in assessing whether a particular felony conviction was violent? For instance, can a court consider the felony conviction itself, the facts of the

underlying crime, or sentencing enhancements? *Bruen* shows that these distinctions should also have firm historical support. *See* 597 U.S. 1, 27-29 (2022) (explaining that the court must assess whether modern and historical regulations are relevantly similar, including in terms of how and why the regulations burden gun rights.”

Atkinson, 70 F.4th 1018, 1023-24 (7th Cir. 2023) (internal quotations omitted).

“Founding-era legislatures did not strip felons of the right to bear arms simply because of their status as felons.” *Kanter v. Barr*, 919 F.3d 437, 451 (7th Cir. 2019) (Barrett, J. dissenting), *abrogated by New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022).

Mr. Cameron requests that this Court reverse his conviction as a violation of his Second Amendment right to bear arms and ammunition for such arms as applied to him.

CONCLUSION

WHEREFORE, Petitioner requests that this Court grant Writ of Certiorari on the question presented.

Respectfully submitted,

/s/ F. Montgomery Brown

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CERTIFICATE OF SERVICE

I, F. Montgomery Brown, hereby certify that on July 19, 2024, did file electronic proof of Petitioner's Petition for Writ of Certiorari to the Clerk of Supreme Court of the United States, 1 First Street, NE, Washington, DC 20543 and sent by overnight delivery an original and 10 copies of the Petition for Writ of Certiorari, Appendix, and Motion to Proceed in Forma Pauperis.

/s/ F. Montgomery Brown

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CERTIFICATE OF COMPLIANCE

This motion was prepared using Times New Roman, 14 point font proportional typeface in Microsoft Word 2007 and complies with the type-volume limitations as set forth by the Rules of the United States Supreme Court 33.1 and 34. Number of words in the motion: 2324

The undersigned counsel further certifies that pursuant to Rules of the US Supreme Court 34.6 the electronic .pdf copy of this motion is virus free.

/s/ F. Montgomery Brown



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