

No. 24-6452

IN THE SUPREME COURT OF THE UNITED STATES

PHILIP LAMAR NORDVOLD, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

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Petitioner contends (Pet. 4-16) that 18 U.S.C. 922(g)(1), the federal statute that prohibits a person from possessing a firearm if he has been convicted of “a crime punishable by imprisonment for a term exceeding one year,” ibid., violates the Second Amendment as applied to him. For the reasons set out in the government’s brief in opposition in Jackson v. United States, No. 24-6517, 2025 WL 1426707 (May 19, 2025), that contention does not warrant this Court’s review. See ibid. (denying certiorari). Although there is some disagreement among the courts of appeals regarding whether Section 922(g)(1) is susceptible to individualized as-applied challenges, that disagreement is

shallow. See Br. in Opp. at 12-15, Jackson, supra (No. 24-6517). This Court has previously denied plenary review when faced with similarly narrow disagreements among the circuits about the availability of as-applied challenges to Section 922(g)(1). See id. at 15. And any disagreement among the circuits may evaporate given the Department of Justice's recent re-establishment of the administrative process under 18 U.S.C. 925(c) for granting relief from federal firearms disabilities. See Br. in Opp. at 15-16, Jackson, supra (No. 24-6517).

This case would in any event be a poor vehicle to determine whether Section 922(g)(1) is susceptible to individualized as-applied challenges because the statute is plainly constitutional as applied to petitioner. Petitioner has a previous state felony conviction for possessing a controlled substance and a previous federal felony conviction for possessing a firearm as a convicted felon. See Pet. App. 7a. Petitioner also has a "tribal criminal history that consists of more than 100 arrests," ibid., and tribal convictions for crimes such as escape, seven instances of bail jumping, assaulting a police officer, two instances of domestic violence, and two instances of simple assault, see Presentence Investigation Report ¶ 37. Given petitioner's extensive criminal record, he cannot show that he would have prevailed on an as-applied challenge in any circuit. Cf. Range v. Attorney General United States, 124 F.4th 218, 223 (3d Cir. 2024) (en banc) (validating an as-applied challenge brought by a civil plaintiff

whose criminal record consisted of a decades-old state misdemeanor conviction, "minor traffic and parking infractions," and "a summary offense for fishing without a license"). In arguing otherwise (Pet. 3, 16), petitioner focuses on his federal and state convictions while ignoring his tribal criminal record.

The petition for a writ of certiorari should be denied.*

Respectfully submitted.

D. JOHN SAUER
Solicitor General

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* A copy of the government's brief in opposition in Jackson is being served on petitioner. The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.