

No. 24-6476

IN THE SUPREME COURT OF THE UNITED STATES

REGINALD CRESHAWN DOSS, 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. 7-21) 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 on its face and as applied to him. For the reasons set out in the government's brief in opposition in French v. United States, No. 24-6623, 2025 WL 1426709 (May 19, 2025), the contention that Section 922(g)(1) is facially unconstitutional does not warrant this Court's review. See ibid. (denying certiorari). As the government explained in French, that contention plainly lacks merit, and every court of appeals to consider the issue since

United States v. Rahimi, 602 U.S. 680 (2024), has determined that the statute has at least some valid applications. See Br. in Opp. at 3-6, French, supra (No. 24-6623).

Similarly, 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), the contention that Section 922(g)(1) violates the Second Amendment as applied to petitioner 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).

For two independent reasons, this case would also be a poor vehicle to determine whether Section 922(g)(1) is susceptible to individualized as-applied challenges. First, petitioner was on parole in three state cases when he violated Section 922(g)(1). See Presentence Investigation Report (PSR) ¶ 60. "[P]arole is an

established variation on imprisonment of convicted criminals. The essence of parole is release from prison, before the completion of sentence, on the condition that the prisoner abide by certain rules during the balance of the sentence.” Samson v. California, 547 U.S. 843, 850 (2006) (citation and ellipsis omitted). Every court of appeals to consider the question has accepted Section 922(g)(1)’s validity as applied to a convicted felon who is still on parole or another form of supervision. See United States v. Quailles, 126 F.4th 215, 221-224 (3d Cir. 2025); United States v. Moore, 111 F.4th 266, 272 (3d Cir. 2024), petition for cert. pending, No. 24-968 (filed Mar. 7, 2025); United States v. Giglio, 126 F.4th 1039, 1042-1046 (5th Cir. 2025); United States v. Goins, 118 F.4th 794, 804-805 (6th Cir. 2024); United States v. Gay, 98 F.4th 843, 847 (7th Cir. 2024); see also Range v. Attorney General United States, 124 F.4th 218, 232 (3d Cir. 2024) (en banc) (emphasizing that the challenger had “completed his sentence”).

Second, even apart from petitioner’s status as a parolee, Section 922(g)(1) does not raise any constitutional concerns as applied to him. Petitioner’s “lengthy criminal record includes over 20 convictions, many of them violent.” Pet. App. 24 n.2. For instance, petitioner has previous convictions for intimidation with a dangerous weapon, aggravated unlawful use of a weapon, possessing a firearm as a felon, possessing marijuana with intent to deliver, identity theft, theft, and forgery. PSR ¶¶ 32, 33-34, 36, 40, 45-47, 52-55. The court of appeals accordingly determined

that, "[e]ven if [petitioner] could bring an as-applied challenge," "he would not succeed," because "[i]t is safe to say that [he] 'poses a credible threat to the physical safety of others.'" Pet. App. 24 n.2 (brackets and citation omitted).

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

Respectfully submitted.

D. JOHN SAUER
Solicitor General

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