

No. 24-7033

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IN THE SUPREME COURT OF THE UNITED STATES

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AQUDRE QUAILES, PETITIONER

v.

UNITED STATES OF AMERICA

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

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MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

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Petitioner contends (Pet. 10-17) 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), 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 a similarly narrow disagreement 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 also be a poor vehicle to determine whether Section 922(g)(1) is susceptible to individualized as-applied challenges because Section 922(g)(1) does not raise any constitutional concerns as applied to petitioner. First, petitioner was on parole when he violated Section 922(g)(1). See Pet. App. 5a. "[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 Pet. App. 10a-18a; 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, petitioner possessed firearms in this case after sustaining six felony convictions, including for trafficking heroin and cocaine and for fleeing or attempting to elude a police officer. Gov’t C.A. Br. 4-5. When he was arrested in this case, he was in possession of multiple firearms, ammunition, suspected cocaine, and drug-trafficking paraphernalia. Id. at 3-4. Given petitioner’s criminal history, he cannot show that he would prevail on an as-applied challenge in any circuit.

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

Respectfully submitted.

D. JOHN SAUER  
Solicitor General

JUNE 2025

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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.