

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Lance James Talbot,

Petitioner,

v.

United States of America,

Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether 18 U.S.C. § 922(g)(1) is unconstitutional under the Second Amendment, both facially and as applied to Mr. Talbot, in light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022)?

RELATED PROCEEDINGS

This case arises from the following proceedings:

- *United States v. Talbot*, No. 23-8025 (10th Cir. Feb. 13, 2025)
- *Talbot v. United States*, 145 S. Ct. 430 (2024) (Nov. 4, 2024) (No. 24-5258)
- *United States v. Talbot*, 23-8025 (10th Cir. May 7, 2024)
- *United States v. Talbot*, No. 22-cr-00116 (D. Wyo. April 12, 2023)

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PETITION FOR A WRIT OF CERTIORARI

Lance James Talbot respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Tenth Circuit entered on February 13, 2025.

OPINIONS BELOW

The unpublished decision of the United States Court of Appeals for the Tenth Circuit in *United States v. Talbot*, No. 23-8025, 2025 WL 485708 (10th Cir. Feb. 13, 2025) appears in the appendix at App. 1. This Court's order granting Mr. Talbot's first petition for certiorari, vacating the judgment, and remanding to the court of appeals is reported at 145 S. Ct. 430 (Nov. 4, 2024), and that judgment is included at App. 3. The Tenth Circuit's initial, now-vacated unpublished opinion is available at 2024 WL 2013910 and appears at App. 4. The district court's oral ruling was memorialized by minute order and is included at App. 6.

JURISDICTION

The United States District Court for the District of Wyoming had jurisdiction in this criminal case under 18 U.S.C. § 3231. The Tenth Circuit had jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742. The circuit entered judgment on February 13, 2025. App. at 1. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

FEDERAL PROVISIONS INVOLVED

The Second Amendment of the United States Constitution, U.S. CONST. amend. II:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

18 U.S.C. § 922(g)(1):

It shall be unlawful for any person . . . who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year . . . to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

STATEMENT OF THE CASE

Petitioner Lance Talbot was charged, as relevant here, with unlawfully possessing ammunition after having previously been convicted of a felony offense, in violation of 18 U.S.C. § 922(g)(1). He moved to dismiss the single-count indictment under the Second Amendment, arguing that, in light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022), section 922(g)(1) was unconstitutional. After the district court denied his motion, he entered a conditional plea of guilty, pursuant to Fed. R. Crim. P. 11(a)(2), preserving his right to appeal that denial. He was sentenced to 57 months’ imprisonment.

On appeal, he pressed his challenge under *Bruen*, contending that section 922(g)(1) was unconstitutional both facially and as applied to him. By that time, however, he acknowledged that his claims were foreclosed by Tenth Circuit precedent, specifically *Vincent v. Garland*, which held that pre-*Bruen* circuit precedent foreclosing both facial and as applied challenges to section 922(g)(1) remained good law after *Bruen* and that the statute was, therefore, constitutional. 80 F.4th 1197 (10th Cir. 2023) (relying on *United States v. McCane*, 573 F.3d 1037 (10th Cir. 2009)). Accordingly, Mr. Talbot presented his claims for preservation only, and the Tenth Circuit affirmed based on *Vincent*. See App. at 4.

At that time, however, multiple petitions for certiorari addressing the constitutionality of section 922(g)(1)—including in *Vincent*—also were pending before

the Supreme Court. After this Court determined in *United States v. Rahimi*, 602 U.S. 680 (2024), that section 922(g)(8), which prohibits firearm possession while subject to a domestic violence restraining order, was constitutional, this Court granted certiorari in those pending petitions challenging section 922(g)(1), vacated the judgments, and remanded “for further consideration in light of” *Rahimi*. See, e.g., *See Vincent v. Garland*, 80 F.4th 1197 (10th Cir. 2023), *cert. granted, judgment vacated*, No. 23-683, 2024 WL 3259668 (U.S. July 2, 2024); *Range v. Att’y Gen. United States of Am.*, 69 F.4th 96 (3d Cir. 2023), *cert. granted, judgment vacated sub nom. Garland v. Range*, No. 23-374, 2024 WL 3259661 (U.S. July 2, 2024); *United States v. Jackson*, 69 F.4th 495, 506 (8th Cir. 2023), *cert. granted, judgment vacated*, No. 23-6170, 2024 WL 3259675 (U.S. July 2, 2024).

Thereafter, Mr. Talbot petitioned for certiorari and this Court followed the same path as in those cases, granting his petition, vacating the Tenth Circuit’s judgment in his case, and remanding for further consideration in light of *Rahimi*, 602 U.S. 680 (2024). On remand in *Vincent*, however, the Tenth Circuit again rejected the arguments that section 922(g)(1) was unconstitutional, for the same reasons as before; that is, that its pre-*Bruen*, pre-*Rahimi* circuit precedent categorically upholding section 922(g)(1) “remains binding.” *Vincent v. Bondi*, 127 F.4th 1263, 1265-66 (10th Cir. 2025). Accordingly, the *Vincent* panel “readopt[ed] [its] prior opinion.” *Id.* at 1266.

The Tenth Circuit then denied Mr. Talbot’s claims as again foreclosed by *Vincent*, see App. at 1, and this petition follows.

REASONS FOR GRANTING THE WRIT

When Mr. Talbot appealed to the Tenth Circuit, that court's precedent in *Vincent* foreclosed his constitutional arguments with respect to section 922(g)(1). *See* App. at 4. After this court remanded his case for reconsideration in light of *Rahimi*, the circuit's new, post-*Rahimi* decision in *Vincent* again foreclosed his claims. *See* App. at 1.

A petition for a writ of certiorari in *Vincent* is currently pending before this Court. *See Vincent v. Bondi*, Sup. Ct. case no. 24-1155 (filed May 8, 2025). This Court should grant the *Vincent* petition for the reasons articulated therein: namely, that even after *Rahimi* the circuits are starkly split over section 922(g)(1)'s validity, the Tenth Circuit's decision in *Vincent* (2025) is wrong, the issue is important and recurring, and Ms. Vincent's case is a good vehicle to resolve the question. As this Court's determination of *Vincent* previously has, and will again, control the outcome of Mr. Talbot's case before the Tenth Circuit, he respectfully requests that this Court hold his petition until *Vincent*'s resolution, and, thereafter, grant this petition for a writ of certiorari, vacate the underlying judgment, and remand for reconsideration in light of the resolution of *Vincent*.

CONCLUSION

The Court should grant the petition in *Vincent* and grant Ms. Vincent relief. Thereafter, it should grant this petition for a writ of certiorari, vacate the underlying judgment, and remand for reconsideration in light of the resolution of *Vincent*. For the foregoing reasons, Mr. Talbot respectfully requests that this Court grant his petition for a writ of certiorari.

Respectfully submitted,

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May 14, 2025