No. 24-1155

In the Supreme Court of the United States

MELYNDA VINCENT, PETITIONER

v.

PAMELA BONDI, ATTORNEY GENERAL

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

BRIEF FOR THE RESPONDENT IN OPPOSITION

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QUESTION PRESENTED

Whether 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," complies with the Second Amendment.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-6a) is reported at 127 F.4th 1263. A prior opinion of the court of appeals (Pet. App. 7a-20a) is reported at 80 F.4th 1197. The memorandum decision and order of the district court (Pet. App. 21a-27a) is available at 2021 WL 4553249.

JURISDICTION

The judgment of the court of appeals was entered on February 11, 2025. The petition for a writ of certiorari was filed on May 8, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

1. In 2008, petitioner Melynda Vincent pleaded guilty to bank fraud, a felony violation of 18 U.S.C. 1344. See Pet. App. 2a, 22a. As part of her plea agreement, petitioner admitted that she had knowingly cashed a

fraudulent check for $498.12. See C.A. App. 65. She also acknowledged that the government would offer, for purposes of sentencing, evidence that she had cashed, passed, or deposited ten additional stolen or fraudulent checks, totaling approximately $25,000, between January and March 2007. See *id.* at 65, 72.

Bank fraud is punishable by up to 30 years of imprisonment. See 18 U.S.C. 1344. Petitioner was sentenced to five years of supervised release and was ordered to pay restitution. See C.A. App. 76, 78. The conviction triggered 18 U.S.C. 922(g)(1), the federal statute that prohibits convicted felons from possessing firearms. See Pet. App. 2a.

2. In 2020, petitioner filed this suit in the United States District Court for the District of Utah, naming the Attorney General as a defendant. See Pet. App. 21a. She sought a declaration that Section 922(g)(1) violates the Second Amendment as applied to her and an injunction prohibiting its enforcement against her. See C.A. App. 32.

The district court granted the government's motion to dismiss. Pet. App. 21a-27a. The court noted that, in *United States* v. *McCane*, 573 F.3d 1037, 1047 (2009), cert. denied, 559 U.S. 970 (2010), the Tenth Circuit had upheld Section 922(g)(1) based on this Court's statement in *District of Columbia* v. *Heller*, 554 U.S. 570 (2008), that "nothing in [its] opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons." *Id.* at 626; see Pet. App. 23a-24a. The district court concluded that *McCane* foreclosed "the kind of individualized assessment of the constitutionality of felon-dispossession statutes" that petitioner sought. Pet. App. 26a.

3. The Tenth Circuit affirmed. Pet. App. 7a-20a. Relying on its decision in *McCane*, the court rejected petitioner's contention that Section 922(g)(1) violates the Second Amendment as applied to her. See *id.* at 9a-15a. This Court granted petitioner's petition for a writ of certiorari, vacated the court of appeals' judgment, and remanded the case for further consideration in light of *United States* v. *Rahimi*, 602 U.S. 680 (2024). See Pet. App. 28a.

On remand, the court of appeals again affirmed. Pet. App. 1a-6a. The court determined that *Rahimi* did not supersede its earlier decision in *McCane*, see *id.* at 2a-5a, and that *McCane* required it to uphold Section 922(g)(1) "without drawing constitutional distinctions based on the type of felony involved," *id.* at 5a.

ARGUMENT

Petitioner contends (Pet. 7-21) that 18 U.S.C. 922(g)(1) violates the Second Amendment as applied to her by subjecting her to "permanent" disarmament based on a years-old conviction for a nonviolent felony. Pet. 15. That contention lacks merit. The Department of Justice recently revitalized an administrative process under 18 U.S.C. 925(c) through which convicted felons can regain their ability to possess firearms. Given that process, petitioner cannot show (Pet. 15) that Section 922(g)(1) subjects her to "permanent" disarmament.

Although there is some disagreement in the courts of appeals about how to evaluate as-applied challenges to Section 922(g)(1), that disagreement does not warrant this Court's review at this time. The disagreement is shallow and may evaporate in light of the Department's re-establishment of the Section 925(c) process. Indeed, in recent months, this Court has repeatedly denied petitions for writs of certiorari raising as-applied Second

Amendment challenges to Section 922(g)(1).[1] The Court should follow the same course here.

A. Given The Availability Of The Section 925(c) Process, Petitioner Cannot Prevail On Her Second Amendment Challenge To Section 922(g)(1)

At least as a general matter, Section 922(g)(1)'s disarmament of convicted felons complies with the Second Amendment. Although some courts have suggested that Section 922(g)(1) could raise constitutional concerns in some unusual applications, the government recently addressed those concerns by re-establishing an administrative process through which convicted felons can regain the right to possess firearms. Given the availability of that process, petitioner cannot prevail on her Second Amendment challenge.

1. This Court has repeatedly indicated that the Second Amendment permits the disarmament of felons. In

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[1] See *Hill* v. *United States*, No. 24-7334, 2025 WL 1787809 (June 30, 2025); *Mireles* v. *United States*, No. 24-7275, 2025 WL 1787796 (June 30 2025); *Thompson* v. *United States*, No. 24-6693, 2025 WL 1787764 (June 30, 2025); *Anderson* v. *United States*, No. 24-6666, 2025 WL 1787760 (June 30, 2025); *Collette* v. *United States*, No. 24-6497, 2025 WL 1787754 (June 30, 2025); *Doss* v. *United States*, No. 24-6476, 2025 WL 1787771 (June 30, 2025); *Nordvold* v. *United States*, No. 24-6452, 2025 WL 1787759 (June 30, 2025); *Moore* v. *United States*, No. 24-968, 2025 WL 1787742 (June 30, 2025); *Talbot* v. *United States*, No. 24-7232, 2025 WL 1727442 (June 23, 2025); *Diaz* v. *United States*, No. 24-6625, 2025 WL 1727419 (June 23, 2025); *Charles* v. *United States*, No. 24-7168, 2025 WL 1679039 (June 16, 2025); *White* v. *United States*, No. 24-7158, 2025 WL 1679042 (June 16, 2025); *Faust* v. *United States*, No. 24-6897, 2025 WL 1603623 (June 6, 2025); *Hunt* v. *United States*, No. 24-6818, 2025 WL 1549804 (June 2, 2025); *Lindsey* v. *United States*, No. 24-6782, 2025 WL 1549803 (June 2, 2025); *Jackson* v. *United States*, No. 24-6517, 2025 WL 1426707 (May 19, 2025).

District of Columbia v. *Heller*, 554 U.S. 570 (2008), the Court stated that "nothing in [its] opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons," and it described such prohibitions as "presumptively lawful regulatory measures." *Id.* at 626, 627 n.26. In *McDonald* v. *City of Chicago*, 561 U.S. 742 (2010), a plurality repeated *Heller*'s "assurances" concerning "such longstanding regulatory measures as 'prohibitions on the possession of firearms by felons.'" *Id.* at 786 (citation omitted). In *NYSRPA* v. *Bruen*, 597 U.S. 1 (2022), five Justices reiterated *Heller*'s approval of "longstanding prohibitions on the possession of firearms by felons." *Id.* at 81 (Kavanaugh, J., joined by Roberts, C.J., concurring) (citation omitted); see *id.* at 129 (Breyer, J., joined by Sotomayor and Kagan, J.J., dissenting). And in *United States* v. *Rahimi*, 602 U.S. 680 (2024), the Court repeated *Heller*'s statement that laws disarming "felons" are "presumptively lawful." *Id.* at 699 (citation omitted).

Those statements accord with history and tradition. Death was "the standard penalty for all serious crimes" at the founding. *Bucklew* v. *Precythe*, 587 U.S. 119, 129 (2019) (citation omitted). American colonies imposed that penalty even for non-violent crimes such as counterfeiting, squatting on Indian land, burning timber intended for house frames, horse theft, and smuggling tobacco. See Stuart Banner, *The Death Penalty: An American History* 8 (2002). Under this Court's precedents, founding-era laws imposing capital punishment for serious crimes support the lesser restriction of disarmament imposed by Section 922(g)(1). Cf. *Rahimi*, 602 U.S. at 699 ("[I]f imprisonment was permissible to respond to the use of guns to threaten the physical safety of others, then the lesser restriction of temporary

disarmament that Section 922(g)(8) imposes is also permissible.").

In addition, the founding generation recognized that disarmament could properly result from conviction even for certain non-capital crimes. During the Revolutionary War, legislatures disarmed persons convicted of various offenses.[2] And at Pennsylvania's convention to ratify the U.S. Constitution, Anti-Federalists proposed a bill of rights that, among other things, would have prohibited "disarming the people or any of them, *unless for crimes committed*, or real danger of public injury from individuals." 2 *The Documentary History of the Ratification of the Constitution* 598 (Merrill Jensen ed., 1976) (emphasis added). "Given the Anti-Federalists' vehement opposition" to federal power, *Adoptive Couple* v. *Baby Girl*, 570 U.S. 637, 664 (2013) (Thomas, J., concurring), it is telling that even they accepted the disarmament of convicted criminals as consistent with the traditional right to bear arms.

Post-ratification history points the same way. In the early 1820s, Edward Livingston drafted influential penal codes that authorized the suspension and permanent forfeiture of certain rights, including the right to bear arms, as punishments for certain crimes. See Edward Livingston, *System of Penal Law—Prepared for the State of Louisiana* 26-29, 49, 73, 138 (1824); Edward

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[2] See, *e.g.*, Resolutions of Sept. 1, 1775, *reprinted in* 1 *Journals of the Provincial Congress, Provincial Convention, Committee of Safety and Council of Safety of the State of New-York* 132 (1842) (furnishing provisions to the British army); Resolution of Mar. 13, 1776, *reprinted in Journal of the Provincial Congress of South Carolina, 1776*, at 77 (1776) (bearing arms against the Continental Congress); Act of Dec. 14, 1775, *reprinted in The Public Records of the Colony of Connecticut From May, 1775 to June, 1776, inclusive* 193 (Charles J. Hoadly ed., 1890) (seditious libel).

Livingston, *A System of Penal Law for the United States of America* 19, 20, 40, 79, 126 (1828). Although those codes ultimately were not adopted, they received wide approval. See Elon H. Moore, *The Livingston Code*, 19 J. Am. Inst. Crim. L. & Criminology 344, 354-355 (May 1928-Feb. 1929). John Marshall, for instance, specifically endorsed Livingston's proposal to punish criminals with the "deprivation of civil and political rights." Letter from John Marshall to Edward Livingston (Oct. 24, 1825).[3]

Section 922(g)(1) also fits within the broader principle that the Second Amendment permits legislatures to restrict the possession of firearms by dangerous individuals. *Rahimi* involved one aspect of that principle: restrictions based on a judicial finding that "an individual poses a clear threat of physical violence to another." 602 U.S. at 698. This case involves a different aspect of that principle: restrictions based on a legislative judgment that a "categor[y] of persons" poses "a special danger of misuse." *Ibid.*; see Gov't Br. at 22-27, *Rahimi*, *supra* (No. 22-915) (collecting historical examples of categorical restrictions). This Court has repeatedly recognized that persons who have been "convicted of serious crimes," as a class, can "be expected to misuse" firearms. *Dickerson* v. *New Banner Institute, Inc.*, 460 U.S. 103, 119 (1983); see, *e.g.*, *Lewis* v. *United States*, 445 U.S. 55, 67 (1980) (Section 922(g)(1) "keep[s] firearms away from potentially dangerous persons."). More broadly, legislatures have long used felony convictions as a proxy for an individual's fitness to exercise a variety of legal rights. See, *e.g.*, *Hawker* v. *New York*, 170 U.S. 189, 197 (1898).

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[3] http://findingaids.princeton.edu/catalog/C0280_c3493.

2. While this Court has described Section 922(g)(1) as "presumptively lawful," *Heller*, 554 U.S. at 627 n.26, some lower courts have suggested that the statute could raise constitutional concerns in some unusual applications. See pp. 12-13, *infra*. But Congress has addressed those concerns through 18 U.S.C. 925(c). Under that provision, a person who is disqualified from possessing firearms, including a person disqualified under Section 922(g)(1), "may make application to the Attorney General for relief from the disabilities." *Ibid.* "[T]he Attorney General may grant such relief" if the applicant shows that "the circumstances regarding the disability, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest." *Ibid.* A person whose application is denied may seek judicial review in federal district court. See *ibid.*

Before 2025, that statutory authority had been delegated to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). See *United States* v. *Bean*, 537 U.S. 71, 74 (2002). Since 1992, however, appropriations statutes have included provisos prohibiting ATF from using appropriated funds to act on Section 925(c) applications. See *ibid.* In combination, the delegation and the appropriations bar effectively suspended the Section 925(c) relief-from-disabilities program.

Recognizing that the appropriations bar applies only to ATF, the Attorney General recently issued an interim final rule withdrawing the delegation of authority to ATF to administer Section 925(c). See *Withdrawing the Attorney General's Delegation of Authority*, 90 Fed. Reg. 13,080 (Mar. 20, 2025). Soon after doing so, the Attorney General granted relief under Section 925(c) to

ten individuals. See *Granting of Relief; Federal Firearms Privileges*, 90 Fed. Reg. 17,835 (Apr. 29, 2025). Other individuals have applied to the Attorney General for relief, and the Department is processing their applications. See, *e.g.*, C.A. Doc. 30, *Fontana* v. *Attorney General*, No. 24-2526 (3d Cir. May 5, 2025) (granting motion to hold civil suit challenging Section 922(g)(1) in abeyance pending the Department's consideration of a Section 925(c) application). The Department also has issued a notice of proposed rulemaking to establish "criteria to guide determinations for granting relief." *Application for Relief from Disabilities Imposed by Federal Laws With Respect to the Acquisition, Receipt, Transfer, Shipment, Transportation, or Possession of Firearms*, 90 Fed. Reg. 34,394, 34,394 (July 22, 2025).

By providing a mechanism through which convicted felons can regain their ability to possess firearms, Section 925(c) addresses any constitutional concerns about the breadth and duration of the restriction imposed by Section 922(g)(1). Section 925(c) also provides a more workable process for restoring firearms rights than would a court-administered regime of as-applied challenges. See *Bean*, 537 U.S. at 77 ("Whether an applicant is 'likely to act in a manner dangerous to public safety' presupposes an inquiry into that applicant's background —a function best performed by the Executive, which, unlike courts, is institutionally equipped for conducting a neutral, wide-ranging investigation.").

3. Even though the Section 925(c) process was not operative at the time of the court of appeals' decision, that process would be relevant to this Court's resolution of petitioner's Second Amendment claim. Chief Justice Marshall explained that a court "must decide according to existing laws"—meaning that, "if subsequent to the

judgment [of a lower court] and before the decision of the appellate court, a law intervenes and positively changes the rule which governs, the law must be obeyed." *United States* v. *Schooner Peggy*, 1 Cranch 103, 110 (1801). This Court has accordingly adhered to the "general rule" that "an appellate court must apply the law in effect at the time it renders its decision," *Henderson* v. *United States*, 568 U.S. 266, 271 (2013) (citation omitted), including when, as in this case, "the change is made by an administrative agency acting pursuant to legislative authorization," *Thorpe* v. *Housing Authority*, 393 U.S. 268, 282 (1969).

Here, the availability of relief under Section 925(c) dooms the Second Amendment challenge raised in the petition for a writ of certiorari. The petition presents the question "[w]hether the Second Amendment allows the federal government to *permanently* disarm Petitioner Melynda Vincent, who has one seventeen-year-old nonviolent felony conviction for trying to pass a bad check." Pet. i (emphasis added). And the body of the petition confirms that petitioner's challenge focuses on permanent disarmament. See Pet. 2 ("permanently disarm"); Pet. 4 ("permanently disarm"); Pet. 13 ("permanently disarm"); Pet. 14 ("permanently disarming"); Pet. 15 ("permanent prohibition"); Pet. 16 ("permanently disarming"); Pet. 17 ("permanent ban"); Pet. 18 ("permanently deprived"). Petitioner chose to frame her claim in those terms even though the Department of Justice had re-established the Section 925(c) process weeks earlier. Compare Pet. 21 (filed May 8, 2025), with 90 Fed. Reg. at 13,080 (published March 20, 2025).

Given the Section 925(c) process, however, petitioner can no longer challenge Section 922(g)(1) on the ground that it subjects her to "permanent" disarmament. Pet. 15.

The restriction imposed by Section 922(g)(1) does not last forever; to the contrary, petitioner may apply for relief from it and, if the Attorney General denies her application, may seek judicial review. Petitioner's legal theory—that Section 922(g)(1) violates the Second Amendment because "[t]he Government cannot show a historical tradition of permanently disarming nonviolent offenders," Pet. 16—thus falls away.

Petitioner states (Pet. 20) that she "has waited long enough" to regain her Second Amendment rights. But plaintiffs in several other civil suits challenging Section 922(g)(1) have already filed Section 925(c) applications, and the Department is currently considering their applications. Petitioner could follow the same course. The Department cannot prejudge the outcome before it has received her application and investigated the facts, but her petition for a writ of certiorari suggests that she would have a strong case for relief.

B. The Question Presented Does Not Warrant This Court's Review At This Time

The question how courts should evaluate as-applied challenges to Section 922(g)(1) does not warrant this Court's review at this time. Although that question has generated some disagreement in the courts of appeals, that disagreement is shallow; the recent revitalization of the Section 925(c) process may resolve it; and this case would in all events be a poor vehicle for addressing the question presented.

1. Since *Rahimi*, six courts of appeals—the Second, Fourth, Eighth, Ninth, Tenth, and Eleventh Circuits—have held that Section 922(g)(1) is not susceptible to case-by-case as-applied challenges. See *Zherka* v. *Bondi*, 140 F.4th 68, 73-96 (2d Cir. 2025); *United States* v. *Hunt*, 123 F.4th 697, 704-708 (4th Cir. 2024), cert. de-

nied, No. 24-6818, 2025 WL 1549804 (June 2, 2025); *United States* v. *Jackson*, 110 F.4th 1120, 1125-1129 (8th Cir. 2024), cert. denied, No. 24-6517, 2025 WL 1426707 (May 19, 2025); *United States* v. *Duarte*, 137 F.4th 743, 755-762 (9th Cir. 2025) (en banc); Pet. App. 2a-6a (10th Cir.); *United States* v. *Dubois*, 139 F.4th 887, 890-894 (11th Cir. 2025).

Two courts of appeals, the Fifth and Sixth Circuits, have left open the possibility of as-applied challenges. See *United States* v. *Diaz*, 116 F.4th 458, 469 (5th Cir. 2024) ("Simply classifying a crime as a felony does not [suffice for disarmament]."), cert. denied, No. 24-6625, 2025 WL 1727419 (June 23, 2025); *United States* v. *Williams*, 113 F.4th 637, 657 (6th Cir. 2024) (Section 922(g)(1) "might be susceptible to an as-applied challenge in certain cases."). But neither court has yet actually held Section 922(g)(1) invalid in any application. To the contrary, the Fifth[4] and Sixth[5] Circuits have both rejected many such claims.

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[4] See, *e.g.*, *United States* v. *Betancourt*, 139 F.4th 480, 482-484 (2025); *United States* v. *Schnur*, 132 F.4th 863, 867-871 (2025); *United States* v. *Giglio*, 126 F.4th 1039, 1042-1046 (2025); *United States* v. *Contreras*, 125 F.4th 725, 729-733 (2025); *United States* v. *Bullock*, 123 F.4th 183, 185 (2024), petition for cert. pending, No. 25-5208 (filed July 24, 2025); *United States* v. *Collette*, No. 22-51062, 2024 WL 4457462, at *2 (Oct. 10, 2024), cert. denied, No. 24-6497, 2025 WL 1787754 (June 30, 2025).

[5] See, *e.g.*, *United States* v. *Poe*, No. 24-6014, 2025 WL 1342340, at *2-*4 (May 8, 2025); *United States* v. *Fordham*, No. 24-1491, 2025 WL 318229, at *4-*5 (Jan. 28, 2025); *United States* v. *Morton*, 123 F.4th 492, 495-500 (2024); *United States* v. *Garrison*, No. 24-5455, 2024 WL 5040626, at *2 (Dec. 9, 2024); *United States* v. *Vaughn*, No. 23-5790, 2024 WL 4615853, at *2-*3 (Oct. 30, 2024); *United States* v. *Parham*, 119 F.4th 488, 495-496 (2024); *United States* v. *Goins*, 118 F.4th 794, 797-805 (2024).

Only the Third Circuit has, since *Rahimi*, found Section 922(g)(1) unconstitutional in any application. Specifically, in *Range* v. *Attorney General*, 124 F.4th 218 (2024), the en banc Third Circuit held that Section 922(g)(1) violates the Second Amendment as applied to a civil plaintiff with a nearly 30-year-old state misdemeanor conviction for understating his income on a food-stamp application. See 18 U.S.C. 921(a)(20)(B) (providing that Section 922(g)(1) extends to state offenses that are classified as misdemeanors if the offenses are punishable by more than two years of imprisonment). The Third Circuit described its decision as "narrow," emphasizing that the plaintiff had been "convicted of food-stamp fraud," that he had "completed his sentence," that his conviction was "[m]ore than two decades" old, that the "record contain[ed] no evidence that [he] pose[d] a physical danger to others," and that he had filed a civil suit seeking "protection from prosecution under § 922(g)(1) for any future possession of a firearm." *Range*, 124 F.4th at 232. The Third Circuit has upheld other applications of Section 922(g)(1).[6]

2. Any tension between the Third Circuit's decision in *Range* and the decisions of other circuits does not warrant this Court's review at this time. The Court has previously declined to grant review when faced with similar conflicts of authority. In 2017, the Court de-

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[6] See, *e.g.*, *United States* v. *Law*, No. 23-2540, 2025 WL 984604, at *2 (Apr. 2, 2025); *United States* v. *Stevens*, No. 24-1217, 2025 WL 651456, at *2 (Feb. 28, 2025), petition for cert. pending, No. 25-5027 (filed June 30, 2025); *United States* v. *White*, No. 23-3013, 2025 WL 384112, at *2 (Feb. 4, 2025), cert. denied, No. 24-7158, 2025 WL 1679042 (June 16, 2025); *United States* v. *Quailes*, 126 F.4th 215, 217 (2025), petition for cert. pending, No. 24-7033 (filed Apr. 14, 2025); *United States* v. *Moore*, 111 F.4th 266, 268-273 (2024), cert. denied, No. 24-968, 2025 WL 1787742 (June 30, 2025).

clined to review a decision in which the en banc Third Circuit had held Section 922(g)(1) unconstitutional as applied in narrow circumstances involving state misdemeanors. See *Binderup* v. *Attorney General*, 836 F.3d 336 (2016), cert. denied, 582 U.S. 943 (2017). Last Term, the Court denied the government's request for plenary review in *Garland* v. *Range*, 144 S. Ct. 2706 (2024), despite a similar, narrow disagreement among the circuits regarding the availability of as-applied challenges to Section 922(g)(1). See Pet. at 22-23, *Range*, *supra* (No. 23-374). More recently, the Court has denied multiple petitions for writs of certiorari raising as-applied challenges to Section 922(g)(1). See p. 4 n.1, *supra*. The Court should likewise deny the petition here.

In addition, any disagreement among the circuits likely lacks prospective importance—and may even evaporate entirely—because of the recent revitalization of the Section 925(c) relief-from-disability-program. Courts that have raised constitutional concerns about some of Section 922(g)(1)'s applications have suggested that making Section 925(c) operational would alleviate those concerns. See, *e.g.*, *Range*, 124 F.4th at 230, 232 (objecting to "permanent" disarmament and concluding that the civil plaintiff was entitled to an opportunity to seek "protection" for "future possession of a firearm"); *Williams*, 113 F.4th at 661 ("Were the ATF program operational and funded, it might provide disarmed felons the chance required by the Second Amendment to make an individualized showing of qualification to keep and bear arms."). Because courts of appeals have not yet had the opportunity to consider the effect of Section 925(c) on the constitutional analysis, this Court's intervention is not yet warranted.

3. This case, at any rate, would be a poor vehicle for resolving the disagreement among the courts of appeals. Petitioner has asked (Pet. i) this Court to decide "[w]hether the Second Amendment allows the federal government to permanently disarm [her]." But because Section 925(c) gives petitioner an opportunity to regain her ability to possess arms, this case does not present that issue. Nor may petitioner now rewrite her petition for a writ of certiorari to present a different question. See Sup. Ct. R. 14.1(a) ("Only the questions set out in the petition, or fairly included therein, will be considered by the Court."); *Yee* v. *City of Escondido*, 503 U.S. 519, 535 (1992) ("The framing of the question presented has significant consequences.").

In addition, if this Court grants review, it would be required to "decide according to existing laws" and thus to consider the effect of the Section 925(c) process on petitioner's claim. *Schooner Peggy*, 1 Cranch at 110. But the lower courts had no occasion to consider that issue; the Section 925(c) process was re-established only after the Tenth Circuit issued its decision in this case. If this Court grants certiorari now, it would need to evaluate that issue in the first instance, contrary to its usual role as "a court of review, not of first view." *Cutter* v. *Wilkinson*, 544 U.S. 709, 718 n.7 (2005).

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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AUGUST 2025