No. 24-1248

In the Supreme Court of the United States

UNITED STATES OF AMERICA, PETITIONER

v.

PATRICK DARNELL DANIELS, JR.

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

REPLY BRIEF FOR THE PETITIONER

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This case presents the question whether 18 U.S.C. 922(g)(3), the federal statute prohibiting the possession of firearms by habitual users of unlawful drugs, violates the Second Amendment as applied to respondent. For the reasons given in the petition for a writ of certiorari (at 4-5), this Court should hold the petition pending the resolution of the petition in *United States* v. *Hemani*, No. 24-1234 (filed June 2, 2025), which likewise involves an as-applied challenge to Section 922(g)(3).

Respondent principally argues (Br. in Opp. 1, 9-14) that the question presented does not warrant this Court's review because the court of appeals issued only an as-applied holding and because the question purportedly is not the subject of a circuit conflict. The certiorari reply brief in *Hemani* fully addresses those arguments, so we do not discuss them further here.

Respondent observes (Br. in Opp. 8-9) that the government has opposed certiorari in cases involving Second Amendment challenges to 18 U.S.C. 922(g)(1), the law prohibiting convicted felons from possessing firearms. But since *United States* v. *Rahimi*, 602 U.S. 680 (2024), only one court of appeals has struck down Section 922(g)(1) in any application, and that solitary decision was narrow in scope. See *Range* v. *Attorney General United States*, 124 F.4th 218, 232 (3d Cir. 2024) (en banc). By contrast, courts have issued multiple decisions upholding as-applied challenges to Section 922(g)(3), and the logic of those decisions threatens a broad range of the statute's applications. See Pet. at 23-25, *Hemani*, *supra* (No. 24-1234). In addition, the shallow circuit conflict about as-applied challenges to Section 922(g)(1) may evaporate after the revitalization of the disability-relief process in 18 U.S.C. 925(c). See Br. in Opp. at 16, *Jackson* v. *United States*, No. 24-6517 (Apr. 11, 2025). By contrast, Section 925(c) is unlikely to resolve the multi-sided circuit conflict at issue here, for courts have invalidated Section 922(g)(3) in a far broader set of applications than Section 925(c) would cover. Compare 18 U.S.C. 925(c) (authorizing relief where "the applicant will not be likely to act in a manner dangerous to public safety"), with Pet. App. 1a (striking down Section 922(g)(3) because "the jury did not necessarily find that [respondent] was intoxicated at the time" he possessed a firearm).

Respondent next argues (Br. in Opp. 8) that, because courts of appeals are still determining how to interpret and apply this Court's decision in *Rahimi*, the Court's review would be "premature." But in *Rahimi* itself, Members of this Court recognized the need to provide additional guidance. See 602 U.S. at 736 (Kavanaugh, J.,

concurring) ("Second Amendment jurisprudence is still in the relatively early innings."); *id.* at 746 (Jackson, J., concurring) ("[I]t is becoming increasingly obvious that there are miles to go."). So have the lower courts in the year since *Rahimi*. See, *e.g.*, *United States* v. *Canada*, 123 F.4th 159, 161 (4th Cir. 2024) ("[C]ourts (including this one) are grappling with many difficult questions."); *United States* v. *Gomez*, 773 F. Supp. 3d 257, 265 (N.D. Tex. 2025) ("[L]ower courts continue to struggle.").

Respondent also contends (Br. in Opp. 18) that, because this case involves a challenge to the jury instructions while *Hemani* does not, *Hemani* would not affect the outcome of this case. That is incorrect. The Fifth Circuit deemed the jury instructions insufficient because it interpreted the Second Amendment to require proof of intoxication at the time respondent possessed a firearm. See Pet. App. 12a-13a. *Hemani* is likely to determine whether that interpretation of the Second Amendment is correct and, thus, whether the additional instructions demanded by the Fifth Circuit are needed.

Finally, respondent argues (Br. in Opp. 6-7) that, because the Fifth Circuit remanded this case for retrial, this Court should deny rather than hold the petition for a writ of certiorari. But if this Court rules in favor of the government in *Hemani*, there would be no need to retry respondent. The conviction that the government has already obtained could simply be affirmed. Holding the petition for a writ of certiorari would thus enable the district court and the parties to avoid a potentially unnecessary retrial.

* * * * *

This Court should hold the petition for a writ of certiorari pending the disposition of the petition in *Hemani* and should then dispose of this petition as appropriate.

Respectfully submitted.

D. JOHN SAUER
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