No. 25-

IN THE
Supreme Court of the United States

TYRONE WOODSON,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

On Petition for a Writ of Certiorari
to the Florida District Court of Appeal,
Fourth District

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

This Court's decision in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022), brought about a sea change in Second Amendment jurisprudence. In *Bruen*'s wake, federal district courts and the courts of appeals have considered myriad constitutional challenges to the federal felon in possession statute, 18 U.S.C. § 922(g)(1), which has produced wildly divergent results. State courts, however, are likewise bound with equal force to apply this Court's precedents in the context of state laws that similarly regulate the right to bear arms.

The question presented is:

> Does Fla. Stat. § 790.23(1) and (1)(a), which makes it "unlawful for any person to own or to have in his or her care, custody, possession, or control any firearm, ammunition, or electric weapon or device, or to carry a concealed weapon, including a tear gas gun or chemical weapon or device, if that person has been" convicted of a felony in a Florida state court, violate the Second Amendment either facially or as applied to an individual who has never been convicted of a violent felony?

PARTIES TO THE PROCEEDING

The Parties to the proceeding are the Petitioner, Tyrone Woodson, and the State of Florida.

CORPORATE DISCLOSURE STATEMENT

No nongovernmental corporations are parties to this proceeding.

RELATED PROCEEDINGS

The following cases are pending that have brought assorted Second Amendment challenges:

- *Parker v. Florida,* case no. 24-6146 (Second Amendment challenge to a Florida conviction for possessing a firearm as a convicted felon);
- *Pusey v. Florida,* case no. 24-6608 (Second Amendment challenge to Florida's ban on possessing guns until age 24 for those with felony-equivalent juvenile adjudications);
- *McCoy v. United States,* case no. 24-6606 (Second Amendment challenge to 18 U.S.C. § 922(g)(1))
- *Martin v. United States,* case no. 24-6582 (facial Second Amendment challenge to 18 U.S.C. § 922(g)(1));
- *Dial v. United States,* case no. 24-6569 (facial and as-applied Second Amendment challenge to 18 U.S.C. § 922(g)(1));
- *Volz v. United States,* case no. 24-6506 (whether convicted felons have Second Amendment rights; whether 18 U.S.C. §§ 922(g)(1) and

924(a)(2) satisfy the Second Amendment in all applications);

- *Jackson v. United States,* case no. 24-6517 (as-applied Second Amendment challenge to 18 U.S.C. § 922(g)(1));
- *Mitchell v. United States,* case no. 24-6516 (facial Second Amendment challenge to 18 U.S.C. § 922(g)(1));
- *Collette v. United States,* case no. 24-6497 (Second Amendment and Commerce Clause challenge to 18 U.S.C. § 922(g)(1));
- *Reaves v. United States,* case no. 24-6487 (whether a person who was previously convicted of a felony is categorically excluded from the protections of the Second Amendment); and
- *Lowe v. United States,* case no. 24-6507 (whether convicted felons have Second Amendment rights).

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PETITION FOR WRIT OF CERTIORARI

Petitioner, Tyrone Woodson, respectfully petitions for a Writ of Certiorari to review the judgment of the Florida Court of Appeals for the Fourth District.

OPINION BELOW

The per curiam opinion of the Florida Court of Appeals, issued October 2, 2024, is reproduced in the Appendix herein at App. 1. The order denying Petitioner's motion for rehearing en banc, written opinion, and certification, issued on December 23, 2024, is reproduced in the Appendix herein at App. 2. The order of dismissal of the Florida Supreme Court of Florida is reproduced in the Appendix herein at App. 3. The trial court's order, denying Petitioner's motion to dismiss, issued on October 6, 2023, is reproduced in the Appendix herein at App. 7-11. The trial court's disposition entered on October 13, 2023, is reproduced in the Appendix herein at App. 5.

JURISDICTION

The order of dismissal of Petitioner's notice to invoke discretionary jurisdiction of the Supreme Court of Florida was entered on January 6, 2025. The present petition is being filed by postmark on or before April 7, 2025. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Second Amendment states in full:

> 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.

U.S. Const. amend. II.

Florida Statute § 790.23 provides:

> It is unlawful for any person to own or to have in his or her care, custody, possession, or control any firearm, ammunition, or electric weapon or device, or to carry a concealed weapon, including a tear gas gun or chemical weapon or device, if that person has been:
>
> Convicted of a felony in the courts of this state;

Fla. Stat. § 790.23(1)(a).

STATEMENT

This case comes to this Court from the Florida Supreme Court's dismissal following the Florida Court of Appeals' per curiam affirmance of the denial of Petitioner's motion to dismiss.

The motion to dismiss asserted that (in addition to violating the Florida Constitution) Fla. Stat. §

790.23(1)(a)'s criminalizing possession of a firearm by an individual previously convicted of a felony in a Florida court 1) is facially unconstitutional under the Second Amendment because this Nation has no historical tradition of permanent disarmament of convicted felons and, alternatively, 2) is unconstitutional as applied to Petitioner, who had no prior felony conviction that included violence as an element of the offense.

After extensive briefing, including a sur-reply from the State, a sur-response from Petitioner, and each party filing multiple notices of supplemental authority, as well as a hearing, the trial court ruled in favor of the State, denying the motion to dismiss in a written opinion that did not explain how, or whether, the State satisfied its burden to establish a historical tradition justifying the statute, as *Bruen* demands.

On appeal, after briefing, the Florida Court of Appeals held oral argument, affirmed the decision without a written opinion, and subsequently denied Petitioner's motion for rehearing en banc, written opinion, and certification. Thereafter, Petitioner filed a notice to invoke the discretionary jurisdiction of the Supreme Court of Florida, which was dismissed. The instant petition follows.

REASONS FOR GRANTING THE PETITION

I. THE DECISIONS BELOW FAILED TO PROPERLY APPLY THE REQUIRED SECOND AMENDMENT ANALYSIS, WHICH INEVITABLY LEADS TO A CONCLUSION THAT THE FLORIDA STATUTE UNDER WHICH PETITIONER WAS CONVICTED IS UNCONSTITUTIONAL.

A. The Florida Courts' Decisions Gave No Genuine Credence to this Court's Clear Articulation of the Second Amendment Standards, Which Apply with Equal Force in State Courts as in Federal Courts.

In *Bruen*, this Court expressly and vigorously rejected the means-end approach many lower courts had applied to Second Amendment challenges, explaining in no uncertain terms that

> the standard for applying the Second Amendment is as follows: When the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation. Only then may a court conclude that the individual's conduct falls outside the Second Amendment's "unqualified command."

597 U.S. at 24 (quoting *Konigsberg v. State Bar of Cal.*, 366 U.S. 36, 50 n. 10 (1961)).

Because the text of the Second Amendment does not admit any exceptions, i.e., it imposes an "unqualified command," any allowable regulations must be deeply rooted in this Nation's historical tradition, such that their permissibility would have been understood at the time it was ratified. That required analysis is entirely consistent with this Court's longstanding, frequently and recently reaffirmed method of statutory interpretation: "The preeminent canon of statutory interpretation requires us to presume that the legislature says in a statute what it means and means in a statute what it says there." *BedRoc Ltd., LLC v. United States*, 541 U.S. 176, 183 (2004) (cleaned up).

Indeed, nearly 100 years ago, this Court stated that "[t]o supply omissions transcends the judicial function." *Iselin v. United States*, 270 U.S. 245, 251 (1926). And just five years ago, this Court explained that principle has endured:

> This Court normally interprets a statute in accord with the ordinary public meaning of its terms at the time of its enactment. After all, only the words on the page constitute the law adopted by Congress and approved by the President. If judges could add to, remodel, update, or detract from old statutory terms inspired only by extratextual sources and our own imaginations, we would risk

> amending statutes outside the legislative process reserved for the people's representatives. And we would deny the people the right to continue relying on the original meaning of the law they have counted on to settle their rights and obligations.

Bostock v. Clayton Cnty., Georgia, 140 S. Ct. 1731, 1738 (2020).

There can be no doubt that those fundamental rules of construction apply with equal if not greater force to constitutional provisions. This Court made that plain in another recent case, noting that, "[b]ecause t]he text of the Sixth Amendment does not suggest any open-ended exceptions from the confrontation requirement to be developed by the courts, the requirement was most naturally read to admit only those exceptions established at the time of the founding." *Hemphill v. New York*, 595 U.S. 140, 150–51 (2022) (cleaned up).

Therefore, this Court explained that to survive scrutiny under the Second Amendment, the "comparable tradition of regulation" must be robust. *See Bruen*, 597 U.S. at 30 (requiring "a well-established and representative" historical analogue); *id.* at 36 (explaining that "a governmental practice" can "guide [courts'] interpretation of an ambiguous constitutional provision" *if* that practice "has been open, widespread, and unchallenged since the early days of the Republic"). The State's burden is not satisfied by a small sample from "outlier jurisdictions"

nor "a law in effect in a single State," *id.* at 70, 67, and it is even "doubt[ful] that *three* colonial regulations could suffice[.]" *Id.* at 46. (emphasis in original).

Like its federal counterpart, Fla. Stat § 790.23 criminalizes mere possession – anywhere, anytime, for any reason – which undeniably falls within the ambit of the Second Amendment. Therefore, state courts cannot sidestep the requirement for the State to bear the burden to establish that the regulation is consistent with this Nation's historical tradition, *id.* at 17, because this Court has "h[e]ld that the Due Process Clause of the Fourteenth Amendment incorporates the Second Amendment[,]"*McDonald v. Chicago*, 561 U.S. 742, 791 (2010).

Bruen's standard, thus, applies to both federal and state courts alike as the U.S. "Constitution… shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." U.S. Const. art. VI, cl. 2. *See also McDonald,* 561 U.S. at 791 ("a provision of the Bill of Rights that protects a right that is fundamental from an American perspective applies equally to the Federal Government and the States.").

Here, the state courts abdicated their duty by absolving the State of its burden to "affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms." *Bruen*, 597 U.S. at 19. At best, the State attempted precisely what this Court expressly forbid, asserting that criminalizing

possession by convicted felons is a "reasonable public safeguard[.]" App. 12-13 (quoting *Nelson v. State*, 195 So. 2d 853, 856 (Fla. 1967)). But that bald assertion in no way implicates the Nation's historical tradition; rather it improperly applies a means-end test *Bruen* expressly disavowed, and failed to recognize that, "[t]o justify its regulation, the government may not simply posit that the regulation promotes an important interest." 597 U.S. at 17.

Indeed, the State eschewed the requirement to establish a historical tradition in favor of the explicitly invalid means-end justification, explaining at hearing *that it could not* point to historical tradition or close analogues that might satisfy the required standard:

> We're not arguing that the firearm by felon statutes are historically old because they're not, unless you think 50 or 60 years is historically old. But that's not required. Bru[e]n was very clear about that. It's an analog[ue], not an identical. So, we do not have to find anything from 2 or 300 years ago in which they specifically weren't allowing felons or criminals to possess firearms.

App. 78.

And the state courts failed to require the State to satisfy its burden, despite this Court's instruction that fully applies to the instant case:

> [T]he inquiry should be "fairly straightforward" where "a challenged

> regulation addresses a general societal problem that has persisted since the 18th century." In such a case, "the lack of a *distinctly* similar historical regulation addressing that problem is relevant evidence that the challenged regulation is inconsistent with the Second Amendment." Further, "if earlier generations addressed the societal problem but did so through materially different means, that also could be evidence that a modern regulation is unconstitutional," as could be the rejection of analogous proposals during the relevant timeframe on constitutional grounds.

United States v. Neal, 2024 WL 833607, at *7 (N.D. Ill. Feb. 7, 2024) (cleaned up, quoting *Bruen*, 597 U.S. at 26-27).

Unquestionably, "[b]ecause the founders were familiar with issues surrounding crime and recidivism, the appropriate inquiry is thus whether a distinctly similar historical regulation to [Fla. Stat. § 790.23's] prohibition on *felons'* possession of firearms exists." *Id.* at *8 (emphasis in original). The State did not even address that inquiry, asserting that "[p]rior court rulings have held that prohibiting convicted felons from possessing firearms due to a potential danger to the community is a rational goal." App. 13-14 (citing *Lewis v. United States*, 445 U.S. 55 (1980)). But the right to bear arms "is not a second-class right, subject to an entirely different body of rules than the

other Bill of Rights guarantees." *Bruen*, 597 U.S. at 70 (cleaned up).

The decisions below must be vacated because the state courts failed to apply the legal analysis mandated by this Court's Second Amendment precedents, abdicating their duty, consistent with ordinary "principle[s] of party presentation," to "decide [this] case based on the historical record compiled by the parties," *Id.* at 25 n. 6. If that record yielded "uncertainties," the courts were required to apply *Bruen*'s "default rules" – the presumption of unconstitutionality at step one and the State's burden at step two – "to resolve [those] uncertainties" in favor of the view "more consistent with the Second Amendment's command." *Id*.

The failure to do so below was incompatible with this Court's binding precedent. The Florida courts have been unwilling to give due credence to the federal constitutional law that applies with equal force to state proceedings. This is especially important because, as discussed *infra*, the proper analysis leads to but one result – Fla. Stat § 790.23 violates the Second Amendment. Without this Court's intervention, the Second Amendment is not upheld in Florida courts, but reduced to a "second-class right," *Id.* at 70.

Accordingly, the writ should issue in order to compel the state courts to faithfully apply the applicable federal law, lest myriad individuals subject to state criminal prosecutions be denied their constitutional rights.

B. The Florida Statute Criminalizing Possession of Firearms by Individuals Previously Convicted of any Felony Violates the Second Amendment.

1. Section 790.23 is Facially Unconstitutional as *No* Historical Tradition in our Nation Exists for Permanently Depriving Convicted Felons of the Second Amendment Right.

"Founding-era legislatures did not strip felons of the right to bear arms simply because of their status as felons." *Kanter v. Barr*, 919 F.3d 437, 451 (7th Cir. 2019) (Barrett, *J.*, dissenting), *abrogated by Bruen*, 597 U.S. 1. In was not until about 150 years later, in 1938, that Congress criminalized firearm possession by individuals convicted of certain crimes for the first time. *See* Federal Firearms Act, ch. 850, § 2(f), 52 Stat. 1250, 1251 (1938). Even that statute was much narrower than the current version. The prohibition in the Federal Firearms Act only applied to someone "convicted of a crime of violence," *id.*, defined as "murder, manslaughter, rape, mayhem, kidnaping, burglary, housebreaking," and specific types of aggravated assault, *id.* § 1(6).

And "Congress did not enact a lifetime ban on firearm possession by all felons until 1961. Pub. L. 87-342, 75 Stat. 757 (1961); see also 18 U.S.C. § 922(g)(1)." *United States v. Prince*, 2023 WL 7220127, at *6 (N.D. Ill. Nov. 2, 2023). Thoroughly canvassing

the issue results in but one conclusion: "*There is no evidence of any law* categorically restricting individuals with felony convictions from possessing firearms at the time of the Founding or ratification of the Second or Fourteenth Amendments." *Id.* (emphasis added).

Rather, like Section 790.23, "such lifetime bans arose only in the 20th century. Congress enacted § 922(g)(1)'s precursor in 1938, which disqualified certain violent felons and misdemeanants from firearm possession, and adopted the current ban on firearm possession by all felons in 1961." *Neal*, 2024 WL 833607, at *9. Far from consistent with this Nation's historical tradition, Section 790.23, like its federal counterpart, "is firmly rooted in the twentieth century and likely bears little resemblance to laws in effect at the time the Second Amendment was ratified." *United States v. Booker*, 644 F.3d 12, 24 (1st Cir. 2011).

Indeed, the State's inability to proffer any remotely similar regulations below was unsurprising, as "there were no laws categorically restricting individuals with felony convictions from possessing firearms at the time of the Founding or ratification of the Second or Fourteenth Amendments." *United States v. Martin*, 2024 WL 728571, at *3 (S.D. Ill. Feb. 22, 2024).

And, despite the common argument that convicts were put to death for some crimes, the fact that one *cannot* possess a gun after "death does not suggest that the *particular* (and distinct) punishment

at issue—lifetime disarmament—is rooted in our Nation's history and tradition." *Range v. Att'y Gen. United States of Am.*, 69 F.4th 96, 105 (3d Cir. 2023) (*en banc*), *cert. granted, judgment vacated sub nom. Garland v. Range,* 144 S. Ct. 2706 (2024) (emphasis in original). Stated differently, "[t]he obvious point that the dead enjoy no rights does not tell us what the founding-era generation would have understood about the rights of felons who lived, discharged their sentences, and returned to society." *Kanter*, 919 F.3d at 462 (Barrett, *J.*, dissenting).

This Nation's history simply does not support any recognition other than "felon in possession of a firearm, [i.e., Section 790.23]—was a nonexistent crime in this country until the passage of the Federal Firearms Act of 1938." *United States v. Duarte*, 101 F.4th 657, 691 (9th Cir.), *reh'g en banc granted, opinion vacated,* 108 F.4th 786 (9th Cir. 2024). And that modern crime was limited to enumerated violent felonies, only being expanded to any person convicted of any felony in the 1960s. *See* Pub. L. 87-342, 75 Stat. 757 (1961); 18 U.S.C. § 922(g)(1); *Prince*, 2023 WL 7220127, at *6.

Scholars and judges alike have noted the lack of relevant historical precedent for felon disarmament statutes, like Section 790.23, including the following from the U.S. Courts of Appeals:

- Justice Barrett herself, when presiding in the Seventh Circuit, *see Kanter*, 919 F.3d at 458 (Barrett, *J.*, dissenting) (canvassing the historical record of

founding-era firearm regulations, concluding "no[] historical practice supports a legislative power to categorically disarm felons because of their status as felons"); *id.* at 451 ("Founding-era legislatures did not strip felons of the right to bear arms simply because of their status as felons"); *id.* at 464 ("History does not support the proposition that felons lose their Second Amendment rights solely because of their status as felons.");

- Judge Tymkovich of the Tenth Circuit, *see United States v. McCane*, 573 F.3d 1037, 1047–49 (10th Cir. 2009) (Tymkovich, *J.*, concurring) (questioning whether felon dispossession laws have a "'longstanding' historical basis," noting "recent authorities have *not* found evidence of longstanding dispossession laws" but instead show such laws "are creatures of the twentieth – rather than the eighteenth – century");

- Judge Hardiman of the Third Circuit, *see Binderup v. Attorney Gen. United States of Am.*, 836 F.3d 336, 368 (3d Cir. 2016) (Hardiman, *J.,* concurring) ("[D]ispossessory regulations … were few and far between in the first century of our Republic.… [T]he Founding generation had no laws denying the right

to keep and bear arms to people convicted of crimes.");

- Judge Bibas of the Third Circuit, *see United States v. Folajtar*, 980 F.3d 897, 914–15 (3d Cir. 2020) (Bibas, *J.*, dissenting) ("Little evidence from the founding supports a near-blanket ban for all felons. I cannot find, and the majority does not cite, any case or statute from that era that imposed or authorized such bans."); *id.* at 924 ("[T]he colonists recognized no permanent underclass of ex-cons. They did not brand felons as forever 'unvirtuous,' but forgave. We must keep that history in mind when we read the Second Amendment. It does not exclude felons as an untouchable caste."); and

- Judge Traxler of the Fourth Circuit, *see United States v. Chester*, 628 F.3d 673, 679 (4th Cir. 2010) ("Federal felon dispossession laws … were not on the books until the twentieth century").

Section 790.23 is also a creature of the twentieth century, and appears to trace its origins to 1955, when the Florida Legislature passed Laws 1955, c. 29766, §§ 1 to 3.

Under no reasonable application of *Bruen*'s clearly articulated standard does Section 790.23 withstand Second Amendment scrutiny. And without question, the State failed to establish, and the state

courts failed to require, even a modicum of evidence of historical tradition, abrogating the unqualified command of the Second Amendment.

Accordingly, the petition should be granted.

2. Section 790.23 is Unconstitutional as Applied to Petitioner, who was Never Adjudicated to be Violent in the Proceedings Below nor his Predicate Felony Convictions.

Petitioner's as-applied challenge asserted that the Second Amendment does not permit regulations permanently depriving him of the right to bear arms based on his predicate felony convictions, which were a non-violent drug offense and tampering with evidence. App. 70-71.

In a recent pointedly applicable case, a district court properly considered virtually the identical issue, noting that "[t]he government bears the burden of demonstrating that depriving [Petitioner] of his Second Amendment rights is "consistent with this Nation's historical tradition of firearm regulation." *United States v. Gomez*, 2025 WL 971337, at *1 (N.D. Tex. Mar. 25, 2025) (citing *United States v. Diaz*, 116 F.4th 458, 464 (5th Cir. 2024), and quoting *Bruen*, 597 U.S. at 17). Unlike the proceedings below, there, the government at least attempts to find appropriate analogous regulations from our Nation's history.

"But the best it can do is point to three property crimes—horse theft and accessory to horse theft, mail theft, and counterfeiting and forgery—and assert that

they represent a historical tradition severely punishing the possession of contraband. A close reading of the laws, however, makes clear that each is materially different than marijuana possession." *Id.*

Exceeding the required party presentation analysis, that court's "own research indicates that Founding-era vice laws, such as prohibitions on gambling items, did not result in permanent disarmament. Thus, the government has failed to identify a representative historical analogue that is relevantly similar to Gomez's possession-of-marijuana conviction." *Id.* (citing *Bruen*, 597 U.S. at 29–30,

And, applying this Court's elaboration on the Second Amendment standards, "[t]he government has also failed to show that Gomez 'poses a credible threat to the physical safety of another' based on his conviction." *Id.* (alteration adopted, quoting *United States v. Rahimi*, 602 U.S. 680, 702 (2024)).

The outcome below unquestionably should have been the same as that court reached, "conclud[ing] that the government has not met 'its heavy burden' to show that disarming Gomez 'is consistent with the principles that underpin our Nation's regulatory tradition.'" *Id.* (cleaned up, quoting *United States v. Connelly*, 117 F.4th 269, 273–74 (5th Cir. 2024), and *Rahimi*, 602 U.S. at 692). For the reasons explained below," just as that court "dismisse[d] the indictment because Section 922(g)(1) is unconstitutional as applied to Gomez[,]" *id.*, the courts below should have dismissed count two of the information because

Section 790.23(a)(1) is unconstitutional as applied to Petitioner.

In *Rahimi*, [this] Court examined Founding-era surety laws and going armed laws[, concluding they] confirmed that individuals at the Founding who posed a clear threat of physical violence to others could be lawfully disarmed consistent with the Second Amendment. *Id.* at *4 (citing *Rahimi*, 602 U.S. at 695–98).

But here, no court below concluded that Petitioner posed a clear threat of physical violence to others. Appellant's prior convictions have nothing to do with violence, bearing arms, or any threat of danger to another person, diametrically opposed to this Court's reasoning upholding the validity of Section 922(g)(8) in *Rahimi*:

> Section 922(g)(8) applies only once a court has found that the defendant "represents a credible threat to the physical safety" of another. § 922(g)(8)(C)(i). That matches the surety and going armed laws, which involved judicial determinations of whether a particular defendant likely would threaten or had threatened another with a weapon.

602 U.S. at 699.

The Court further emphasized that the dangerousness element alone would likely not have

sufficed because, "[m]oreover, like surety bonds of limited duration, Section 922(g)(8)'s restriction was temporary as applied to Rahimi. Section 922(g)(8) only prohibits firearm possession so long as the defendant 'is' subject to a restraining order. § 922(g)(8). In Rahimi's case that is one to two years after his release from prison[.]" *Id.*

Not only does none of *Rahimi*'s rationale apply here but, "[a]s a threshold matter, the government cannot show any Founding-era laws that prohibited the possession of drugs or intoxicants." *Gomez*, 2025 WL 971337, at *14. The *Gomez* court

> and others have been unable to identify any analogous Founding-era laws regulating the possession of intoxicants. There was very little regulation of drugs (related to firearm possession or otherwise) until the late 19th century. There is certainly no evidence of public concern for, or understanding of, marijuana as an intoxicant until the mid-1930s.

Id. (cleaned up, surveying cases).

Under no proper consideration applying *Bruen* and *Rahimi* as required for Second Amendment challenges can Section 790.23 survive scrutiny as applied to Petitioner. But the decisions below failed to faithfully do so, eschewing the historical tradition analysis for the State's means-end arguments rejected in *Bruen*, and prior to the benefit of *Rahimi*, which is virtually dispositive for Petitioner's as applied

challenge. Only this Court's issuance of the writ can undo the constitutional errors below.

Accordingly, the petition should be granted.

II. THIS CASE PRESENTS A RECURRING QUESTION OF NATIONAL IMPORTANCE THAT REQUIRES STATE COURTS TO PROPERLY APPLY THE SECOND AMENDMENT ANALYSIS WITH EQUAL FORCE AS FEDERAL COURTS.

The Court should grant the petition because the question is critically important and recurring. After all, Section 790.23 like "§ 922(g) is no minor provision." *Rehaif v. United States*, 588 U.S. 225, 239 (2019) (Alito, *J.*, dissenting).

Data shows that, out of about 64,000 cases reported to the Sentencing Commission in Fiscal Year 2023, more than 7,100 involved convictions under § 922(g)(1). *See* U.S. Sent'g Comm'n, *Quick Facts: 18 U.S.C. § 922(g) Firearms Offenses*, at 1 (June 2024). Those convictions accounted for over 10% of all federal criminal cases. *See id.* The government itself has acknowledged "the special need for certainty about Section 922(g)(1) given the frequency with which the government brings criminal cases under it." Gov't Supp. Br. at 10 n.5, *Garland v. Range*, case no. 23-374.

The situation is no less severe for Section 790.23—statistics maintained by the Florida Department of Law Enforcement show that more than 3,000 people in Florida are arrested annually for charges of possessing a firearm by a convicted felon. To state the obvious, prosecutions in the States for

violation of the fifty respective felon in possession statutes far exceed federal prosecutions for violations of the federal felon in possession statute.

Accordingly, this Court should grant the petition.

III. THIS CASE PRESENTS A GOOD VEHICLE.

This case presents an ideal vehicle for addressing whether Section 790.23 violates the Second Amendment and, perhaps more importantly, whether state courts must be held to vigorously uphold the Second Amendment standard.

The case cleanly presents a purely legal issue. There are no jurisdictional problems, factual disputes, or preservation issues. Petitioner thoroughly briefed his facial and as-applied Second Amendment challenges in both the trial court and the court of appeals. And the virtually identical prohibitions of Section 790.23 make this case—alone or combined with other cases[1] challenging § 922(g)(1)—an ideal vehicle.

CONCLUSION

For the foregoing reasons, the petition should be granted.

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[1] *See* Related Proceedings, *supra.*

Respectfully submitted,

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