

No. 24-7400

IN THE SUPREME COURT OF THE UNITED STATES

BRANDON LEE MAYFIELD, PETITIONER

v.

UNITED STATES OF AMERICA

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

BRIEF FOR THE UNITED STATES IN OPPOSITION

D. JOHN SAUER
Solicitor General
Counsel of Record

MATTHEW R. GALEOTTI
Acting Assistant
Attorney General

ANN O'CONNELL ADAMS
Attorney

Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

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.

IN THE SUPREME COURT OF THE UNITED STATES

No. 24-7400

BRANDON LEE MAYFIELD, PETITIONER

v.

UNITED STATES OF AMERICA

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

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. A11-A13) is available at 2025 WL 752335. A prior opinion of the court of appeals (Pet. App. A8-A10) is available at 2024 WL 2891344. The opinion of the district court is reported at 660 F.Supp.3d 1135.

JURISDICTION

The judgment of the court of appeals was entered on March 10, 2025. The petition for a writ of certiorari was filed on June 5, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a conditional guilty plea in the United States District Court for the Northern District of Oklahoma, petitioner was convicted of possessing a firearm following a felony conviction, in violation of 18 U.S.C. 922(g)(1). Pet. App. A1. He was sentenced to 180 months of imprisonment, to be followed by five years of supervised release. Id. at A2-A3. The court of appeals affirmed. Id. at A8-10, A11-A13.

1. In September 2021, officers from the Tulsa Police Department responded to a report of domestic violence at the home of Nina McNeil. Presentence Investigation Report (PSR) ¶ 5. They encountered petitioner, who admitted that he had slapped McNeil and informed the officers that there was a firearm inside the home. Ibid. During a search of the home, officers discovered a firearm that had been reported stolen by the Muscogee National Tribal Police. Ibid. Petitioner's criminal record included four previous felony convictions for domestic assault and battery. See Indictment 1; PSR ¶¶ 23-26.

2. A federal grand jury in the Northern District of Oklahoma indicted petitioner on one count of possessing a firearm following a felony conviction, in violation of 18 U.S.C. 922(g)(1). Indictment 1-2. Petitioner moved to dismiss the indictment, arguing that Section 922(g)(1) violates the Second Amendment. See D. Ct. Doc. 24 (Dec. 28, 2022). The district court denied that

motion, and petitioner pleaded guilty while reserving his right to appeal. Pet. App. A12.

3. The court of appeals affirmed, rejecting petitioner's contention that Section 922(g)(1) violates the Second Amendment. Pet. App. A8-A10. This Court subsequently granted a petition for a writ of certiorari, vacated the judgment, and remanded the case for further consideration in light of United States v. Rahimi, 602 U.S. 680 (2024). See 145 S. Ct. 430.

On remand, the court of appeals again rejected petitioner's contention that Section 922(g)(1) violates the Second Amendment. Pet. App. A11-A13. The court held that petitioner's challenge was foreclosed by circuit precedent. Ibid. (citing Vincent v. Bondi, 127 F.4th 1263 (10th Cir. 2025), petition for cert. pending, No. 24-1155 (filed May 8, 2025); United States v. McCane, 573 F.3d 1037 (10th Cir. 2009), cert. denied, 559 U.S. 970 (2010)).

ARGUMENT

Petitioner renews his contention (Pet. 5)¹ that Section 922(g)(1) violates the Second Amendment. For the reasons set out in the government's brief opposing certiorari in French v. United States, 145 S. Ct. 2709 (2025), the contention that Section 922(g)(1) is facially unconstitutional does not warrant this Court's review. See ibid. (denying certiorari). As the government explained in French, that contention plainly lacks merit, and every

¹ The petition is not paginated, but this brief cites to the six-page petition as if it were paginated as pages 1-6.

court of appeals to consider the issue since United States v. Rahimi, 602 U.S. 680 (2024), has determined that the statute has at least some valid applications. See Br. in Opp. at 3-6, French, supra (No. 24-6623).

Although petitioner does not develop any argument that Section 922(g)(1) is unconstitutional as applied to him, he contends (Pet. 3) that he raised an as-applied challenge to Section 922(g)(1) on appeal. That is incorrect. Petitioner acknowledges that he brought only a facial challenge in his motion to dismiss. See ibid. And his court of appeals brief contains no additional as-applied argument. Compare D. Ct. Doc. 24, at 2-9, with Pet. C.A. Br. 5-9; see C.A. Doc. 26 (Apr. 15, 2024) (government letter notifying court of appeals that it would not be filing a response brief because petitioner was raising only a facial challenge to Section 922(g)(1)). Throughout the time that Rahimi was pending and after it was decided, this Court consistently denied petitions raising Second Amendment challenges to Section 922(g)(1) when the petitioners failed to preserve their claims in the lower courts. See, e.g., Trammell v. United States, 145 S. Ct. 561 (2024) (No. 24-5723); Chavez v. United States, 145 S. Ct. 459 (2024) (No. 24-5639); Dorsey v. United States, 145 S. Ct. 457 (2024) (No. 24-5623). The Court should follow the same course here.

In any event, for the reasons set out in the government's brief opposing certiorari in Vincent v. Bondi, No. 24-1155 (Aug. 11, 2025), the contention that Section 922(g)(1) violates the

Second Amendment as applied to petitioner does not warrant this Court's review. 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 11-14, Vincent, *supra* (No. 24-1155). This Court has previously denied plenary review when faced with similarly narrow disagreements among the circuits about the availability of as-applied challenges to Section 922(g)(1). See *id.* at 13-14. And any disagreement among the circuits may evaporate given the Department of Justice's recent reestablishment of the administrative process under 18 U.S.C. 925(c) for granting relief from federal firearms disabilities. See Br. in Opp. at 8-11, Vincent, *supra* (No. 24-1155).

Additionally, as petitioner appears to recognize, this case would be a poor vehicle for review. He instead contends (Pet. 5) that the Court should grant certiorari in Vincent, resolve that case, and then remand his case for further reconsideration. But for the reasons given in the government's brief in Vincent, that case does not warrant review. Regardless, even a decision in favor of the petitioner in Vincent would not necessarily help petitioner here. Unlike the civil plaintiff in that case, petitioner did not comply with the law while challenging Section 922(g)(1) in a civil action. Instead, he knowingly violated the law by possessing a firearm and then raised a Second Amendment defense after he was caught and criminally prosecuted.

Moreover, Section 922(g)(1) does not raise any constitutional concerns as applied to petitioner. Petitioner possessed a firearm in this case after sustaining four felony convictions for domestic assault and battery. PSR ¶¶ 23-26. Given petitioner's criminal history, he cannot show that he would prevail on an as-applied challenge in any circuit. See, e.g., United States v. Williams, 113 F.4th 637, 660 (6th Cir. 2024) (recognizing the constitutionality of applying Section 922(g)(1) to persons with previous convictions for "assaults").²

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

D. JOHN SAUER
Solicitor General

MATTHEW R. GALEOTTI
Acting Assistant
Attorney General

ANN O'CONNELL ADAMS
Attorney

OCTOBER 2025

² Copies of the government's briefs in opposition in French and Vincent are being served on petitioner.