No.

In The
SUPREME COURT OF THE UNITED STATES

DEAMONTE LAW,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

This Court's decisions in *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022) and *United States* v. *Rahimi*, 602 U.S. 680 (2024), require our district courts to engage in a history-based analysis when deciding whether a firearm regulation is part of the historical tradition that sets the outer boundaries of the right to keep and bear arms. To make this determination, a district court must determine whether the challenger or conduct at issue is protected by the Second Amendment and, if so, whether the Government has presented sufficient historical analogues to justify the restriction.

Here, the Third Circuit addressed Petitioner's as-applied challenge to the lifetime ban under 18 U.S.C. §922(g)(1). In doing so, it solidified the division amongst our circuit courts on whether that argument can even be made.

The question presented is:

Does the Second Amendment allow for an "as-applied" challenge to the constitutionality of Section 922(g)(1)'s lifetime ban?

PARTIES TO THE PROCEEDINGS

Pursuant to Rule 14.1(b)(i) of this Court's Rules, petitioner submits that there are no parties to the proceeding other than those named in the case caption.

Petitioner, Deamonte Law, was the defendant in the district court and the appellant in the court of appeals.

Respondent, the United States of America, was the plaintiff in the district court and the appellee in the court of appeals.

RELATED PROCEEDINGS

This case arises from and is directly related to the following proceedings in the U.S. District Court for the Western District of Pennsylvania and the U.S. Court of Appeals for the Third Circuit:

United States v. Deamonte Law, No. 2:13-cr-00202-JFC-002 (W.D. Pa.) (May 27, 2015);

United States v. Deamonte Law, No. 2:20-cr-00341-CB (W.D. Pa.) (Aug. 16, 2023);

United States v. Deamonte Law, No. 23-2540 (3d Cir.)(April 2, 2025).

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PETITION FOR WRIT OF CERTIORARI

Petitioner Deamonte Law respectfully petitions for a writ of certiorari to the United States Court of Appeals, Third Circuit in this case.

OPINIONS BELOW

The Third Circuit's opinion is reported at *United States v. Law*, 2025 U.S. App. LEXIS 7670 and 2025 WL 984604 (April 2, 2025) and reproduced at App-1.

The district court's decision denying Law's motion to dismiss the indictment is reported at *United States v. Law,* 2022 U.S.Dist. LEXIS 195465, 2022 WL 17490258 (Oct.27, 2022). It is reproduced at App-6.

The district court's decision denying Law's motion for reconsideration is reported at *United States v. Law*, 2023 U.S.Dist. LEXIS 140197 and 2023 WL 5176297 (Aug. 11, 2023). The decision is reproduced at App-8.

JURISDICTION

The Third Circuit issued its decision on April 2, 2025. No petition for rehearing was filed. Justice Alito, under Rule 13.5, extended the deadline to file a petition for writ of certiorari to July 31, 2025. *See*, 24A1267 (June 25, 2025).

The United States District Court for the Western District of Pennsylvania had subject matter jurisdiction of this criminal case under 18 United

States Code Section 3231 ("The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States.").

The United States Court of Appeals for the Third Circuit had jurisdiction pursuant to 28 United States Code Section 1291 ("The courts of appeals… shall have jurisdiction of appeals from all final decisions of the district courts of the United States, …".).

This Court has jurisdiction under 28 United States Code Section 1254(1)("Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;").

CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED

The Second Amendment to the United States Constitution and 18 United States Code Section 922(g) are reproduced in the Appendix beginning at App-10.

STATEMENT OF THE CASE

This case is about the constitutionality of an Act of Congress. The material contained here is mindful of that singular predicate.

A. Legal Background

In its seminal decision in *District of Columbia*

v. Heller, this Court held that there is "no doubt … that the Second Amendment confer[s] an individual right to keep and bear arms." 554 U.S. 570, 595 (2008). While the Court acknowledged that the right is not "unlimited," it looked to historical restrictions on firearm possession to inform its analysis of the constitutionality of the law at hand. *Id.* at 626-27, 631-34. But the Court left a full-throated exposition of that historical analysis for another day.

Over the next decade, lower courts "coalesced around a 'two-step' framework for analyzing Second Amendment challenges that combines history with means-end scrutiny." *Bruen*, 597 U.S. at 17. But this Court ultimately rejected that approach in *Bruen*, explaining that a "judge-empowering 'interest balancing inquiry'" would not sufficiently safeguard individuals' constitutional rights. *Id.* at 22. After all, as *Heller* made clear, "[a] constitutional guarantee subject to future judges' assessments of its usefulness is no constitutional guarantee at all." *Id.* at 23 (quoting *Heller*, 554 U.S. at 634). So the Court laid out a more robust constitutional framework steeped in "the Nation's historical tradition of firearm regulation." *Id.* at 24. Under that approach, if the regulated conduct is covered by the text of the Second Amendment, then it is presumptively protected, and the burden shifts to the government to justify its regulation. *Id.* To do so, the government must identify historical firearm restrictions that are analogous to the modern challenged regulation in their "how and why"—i.e., the "modern and historical regulations" must "impose a comparable burden on the right of armed self-defense" that "is comparably justified." *Id.* at 29.

Last year, this Court provided additional guidance on how to implement *Bruen*'s methodology in *United States v. Rahimi*, 602 U.S. 680 (2024). *Rahimi* reiterated that "the appropriate analysis involves considering whether the challenged regulation is consistent with the principles that underpin our regulatory tradition" as evidenced by the government's proffered historical analogues. *Id.* at 692. This Court clarified that those analogues "need not be a 'dead ringer' or a 'historical twin'" for the challenged regulation. *Id.* But it reiterated that "[w]hy and how the [challenged] regulation burdens the right are central" to the Second Amendment inquiry. *Id.* In other words, the focus remains on whether the challenged regulation "impos[es] similar restrictions for similar reasons." *Id.* Applying that framework, this Court held that §922(g)(8)(C)(i) is constitutionally sound, as it is grounded in a historical tradition of temporarily disarming individuals who have been found to pose "a credible threat to the physical safety of another." *Id.* at 702.

In short, as exemplified in *Rahimi*, *Bruen* tasks courts with conducting a categorical comparison of the mechanics of the challenged provision and the government's historical analogues to assess whether the challenged law passes constitutional muster.

B. Factual Background

(1) District Court Proceedings

An early September day in 2020 brought Deamonte Law to a public housing complex in McKeesport, Pennsylvania. The production of a music video contributed to various people gathering in a

particular parking lot of the Crawford Village apartments. Law was there, along with several others. Unbeknownst to Law and the group, so was law enforcement.

From a distant location, law enforcement was watching. There are surveillance cameras on several apartment buildings. Law enforcement was able to view the live feed from those cameras.

Law enforcement identified Law. They also noticed he had an object on his right hip area. They identified it as a gun. They also identify another person, Mr. Williams. There was an active warrant for Williams. A plan was developed to arrest Williams on that active warrant. The plan took some time to materialize. Finally, four (4) officers got in a car and drive right into the parking lot and screech to a stop. Right there in the path of the headlights and off to the car's right, near the front bumper, is Law. He runs to the police car's right. He appears to be pinning something to his right hip. The officers jump out and focus their attention on Williams who is in front of them. Law is no longer in their sights.

That is until a post-incident review of the cameras. Law enforcement saw Law a few parking spaces to the right of the police car, bend down toward the ground, back up, and then leave the area.

As law enforcement was closing up the scene that evening, a gun was discovered in the very place that Law was seen on the video as bending down and then back up.

On November 12, 2020, the government charged Deamonte Law with possessing a firearm on September 4, 2020, when he was not allowed to because of a prior felony conviction. 18 United States

Code Section 922(g)(1). The prior conviction was from a 2013 federal case from the same courthouse. There Law pled guilty to two drug offenses: possession with intent to distribute crack cocaine and possession of a firearm in furtherance of a drug trafficking crime. On May 27, 2015, he was sentenced to 90 months in jail followed by 3 years of supervised release.

On January 11, 2021, Mr. Law made his initial appearance, and with the assistance of counsel, he entered a not-guilty plea to the single-count Indictment. He was detained.

After some extensions of time, a trial date was set. Prior to trial, however, Law moved to dismiss the *Indictment*. He claimed the statute, 18 United States Code Section 922(g)(1), was unconstitutional on its face and as applied to him. After receiving a written argument from the government and a reply from Law, the district court denied the motion on October 27, 2022.

The case proceeded to trial on December 19, 2022. The next day, a jury found him guilty.

The case then progressed towards sentencing. However, on July 3, 2023, Law asked the district court to reconsider its ruling denying his motion to dismiss. After receiving position papers from both sides, the district court denied the renewed request to dismiss. On August 16, 2023, Law was sentenced. His punishment was 46 months in jail followed by 3 years of supervised release.

On August 23, 2024, a *Notice of Appeal* was filed.

(2) Appellate Court Proceedings

In the United States Court of Appeals for the Third Circuit, Law advanced a single argument: Title 18, U.S.C. Section 922(g)(1) violates the Second Amendment when applied to Mr. Law? The tentacles of that argument were as follows: despite his prior conviction, Law is still one of "the people"; the Second Amendment protects the simple act of possession which 922(g)(1) prohibits; and, the government failed to present sufficiently similar regulations to justify the lifetime ban.

In holding that "Law's possession of a firearm in September 2020 does not offend the Second Amendment" the Third Circuit relied exclusively on its decisions in *United States v. Moore*, 111 F.4th 266 (3d Cir. 2024)[1] and *United States v. Quailes*, 126 F.4th 215 (3d Cir. 2025)[2].

In *Moore*, the Third Circuit started on the right path. The court had little difficulty concluding that Moore "is one of the 'people' whom the Second Amendment presumptively protects" and that "the charge at issue punishes Moore for quintessential Second Amendment conduct: possessing a handgun." 111 F.4th at 269. It also explained, correctly, that under *Bruen* and *Rahimi*, the government "bears the

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[1] Mr. Moore sought review with this Court on March 7, 2025. *See*, 24-968. On June 30, 2025, this Court denied Moore's petition. *Moore v. United States*, 2025 U.S. LEXIS 2611 (U.S.. June 30, 2025).

[2] The petitioner in *Quailes* sought review with this Court on April 14, 2025. *See*, 24-7033. *Quailes* along with many other 922(g) centric cases are listed for conference on September 29, 2025.

burden of justifying [the] regulation" it seeks to enforce. *Id.*, at f.n. 2. The panel also reiterated that, "[a]s compared to its historical analogue, [the] modern regulation [at issue] must 'impose a comparable burden …, and … that burden [must be] comparably justified.'" *Id.* (quoting *Bruen*, 597 U.S. at 29) (final brackets in original).

Despite clearly and correctly identifying its doctrinal responsibility under *Bruen* and *Rahimi*, the Third Circuit proceeded to depart from that task. Rather than address whether depriving someone of the right to possess a firearm based on Moore's past felony convictions "impose[s] a comparable burden" to the government's historical analogues that is "comparably justified," the court assessed whether historical analogues support dispossessing a criminal defendant who is serving a term of supervised release. *Id.* While Moore pointed out that his supervised-release status "c[ould not] support his felon-in-possession conviction" because that is not one of "the predicate offenses that made him a felon", *Id.*, at 272, the Third Circuit disagreed. In its view, it was not confined to asking whether the law at hand is constitutional as applied to Moore, but rather could consider any "fact[s] that [it] deem[ed] constitutionally relevant"—i.e., whether there is any basis that might justify disarming Moore, whether tied to the law of conviction at issue or not. *Id.*, at 273. And, according to the court, "the tradition of forfeiture laws, which temporarily disarmed convicts while they completed their sentences," sufficed "[t]o justify disarming Moore while he was on supervised release." *Id.*, at 269-272 (discussing Founding-era forfeiture laws). Thus, in the Third Circuit's view, the actual

"predicate offenses alleged in the indictment"—and whether the government had established a historical tradition of disarming individuals based on similar offenses— were beside the point; the only "fact … constitutionally relevant" was that "Moore was on supervised release when he possessed the firearm." *Id*., at 273.

The Court's decision was docketed on April 2, 2025. After an extension of time was granted, this petition was timely filed.

REASONS FOR GRANTING THE WRIT

Right now, geography is the fulcrum of one's ability to exercise their Second Amendment right. It should not be that way.

Following this Court's decision in *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. 1 (2022) and *United States v. Rahimi*, 602 U.S. 680 (2024), the circuit courts became the battlefield to address the fallout. One such issue was whether an Act of Congress – Section 922(g)(1) – could be challenged on an "as-applied" theory. In other words, could the circumstances associated with one's criminal past be judicially considered and, possibly, override the statute's lifetime ban. Our Courts of Appeals are not unified on that front.

A categorical ban on felons possessing firearms is the law in five (5) of our U.S. Courts of Appeals.

The Fourth[3], Eighth[4], Ninth[5], Tenth[6], and Eleventh[7] Circuits have determined that neither *Bruen* nor *Rahimi* disturb the legality of Section 922(g)(1)'s lifetime ban on all felons possessing firearms.

Looking at some other circuits shows the clear divide that exists. In *United States v. Diaz*, 116 F.4th 458, 471 (5th Cir. 2024), the Fifth Circuit rejected an "as-applied" challenge because the defendant's underlying felony was sufficiently similar to death-eligible felony at the founding. The Sixth Circuit has reviewed an "as-applied" argument and concluded the defendant's criminal record sufficiently showed that he was dangerous enough to warrant disarmament. *United States v. Williams*, 113 F.4th 637 (6th Cir. 2024). Then, there is the Third Circuit. In *Range v. AG, United States*, 124 F.4th 218, 222-23 (3d Cir. 2024)(*en banc*), the Court of Appeals held that the Second Amendment entitles a person subject to Section 922(g)(1) to file a declaratory judgment action where the government must make a showing that the "our Republic has a longstanding history and tradition of depriving people like [the plaintiff] of their firearms." *Id*., at 232. Because the plaintiff's only felony conviction was for making a false statement to obtain food stamps, a nondangerous offense, the court determined that the Second

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[3] *United States v. Hunt*, 123 F.4th 697 (4th Cir. 2024), *cert. denied*, 2025 U.S. LEXIS 2146 (U.S. June 2, 2025).

[4] *United States v. Jackson*, 110 F.4th 1120 (8th Cir. 2024), *cert. denied*, 2025 U.S. LEXIS 1969 (U.S. May 19, 2025).

[5] *United States v. Duarte*, 2025 U.S. App. LEXIS 11255 (9th Cir. 2025).

[6] *Vincent v. Bondi*, 127 F.4th 1263 (10th Cir. 2025).

[7] *United States v. Dubois*, 137 F.4th 743 (11th Cir. 2025).

Amendment barred the government from using 922(g)(1) to disarm him. *Id*.

Contributing to this schism are decisions from the First, Second and Seventh Circuits. The First and Second Circuits have declined to address constitutional challenges to Section 922(g)(1) on the merits. *See*, *United States v. Langston*, 110 F.4th 408, 419-20 (1st Cir. 2024)(Court rejects an "as-applied" challenge because there was no "plain" error), *cert. denied*, 2024 U.S. LEXIS 4720 (U.S. 2024) and *United States v. Caves*, 2024 U.S. App. LEXIS 32678 (2d Cir. 2024), *cert. denied*, 2025 U.S. LEXIS 1614 (U.S. 2025)(same). The Seventh Circuit acknowledged that there may be "*some* room for as-applied challenges," but did not identify any rules or guidelines for a successful challenge. *United States v. Gay*, 98 F.4th 843, 846 (7th Cir. 2024). Instead, the Court focused on *Bruen*'s "law-abiding, responsible citizens" language, and found that the defendant's conduct and criminal history showed he was not a "law-abiding, responsible citizen" who had a constitutional right to possess firearms. *Id*., at 847.

Every Circuit Court of Appeals has authored an opinion on this topic. Five do not allow for an "as-applied" challenge. Three others, and possibly a fourth, allow for judicial review of one's criminal history to determine if the statute's lifetime prohibition must yield to the Second Amendment. The "as-applied" conflict is real. The numbers tell us that. The conflict is deep. "[P]erhaps no single Second Amendment issue has divided the lower courts more than the constitutionality of the 18 U.S.C. § 922(g)(1) felon-disarmament rule's application to certain

nonviolent felons."[8] The conflict deserves this Court's time and attention.

CONCLUSION

For the reasons set forth here, this Court should grant the petition for certiorari.

Respectfully submitted,

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[8] *United States v. Duarte*, 108 F.4th 786, 787 (9th Cir. 2024) (VANDYKE, Circuit Judge, dissenting from the grant of rehearing en banc).