No. 25-458

In the Supreme Court of the United States

WILLIAM COLLINS, III, PETITIONER

v.

PAMELA BONDI, ATTORNEY GENERAL, ET AL.

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

BRIEF FOR THE FEDERAL RESPONDENTS 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-2a) is available at 2025 WL 1409861. A prior opinion of the court of appeals (Pet. App. 23a-43a) is unreported. The memorandum opinion of the district court (Pet. App. 3a-18a) is reported at 699 F. Supp. 3d 409.

JURISDICTION

The judgment of the court of appeals was entered on May 15, 2025. On July 23, 2025, the Chief Justice extended the time within which to file a petition for a writ of certiorari to and including October 10, 2025, and the petition was filed on that date. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

1. In 18 U.S.C. 922(g)(1), Congress made it unlawful for a person to possess a firearm if he has been convicted of "a crime punishable by imprisonment for a term exceeding one year." "The term 'crime punishable by imprisonment for a term exceeding one year' does not include * * * any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less." 18 U.S.C. 921(a)(20)(B).

In 1998, petitioner pleaded guilty to two offenses under Maryland law: resisting arrest and driving while intoxicated. Pet. App. 4a. Those convictions arose because, in 1997, he was pulled over by police for driving while intoxicated and fled the vehicle on foot. *Ibid.* The resisting-arrest offense, a common-law misdemeanor, was punishable by "any term of imprisonment that did not violate the constitutional prohibition against cruel and unusual punishment." *McNeal* v. *State*, 28 A.3d 88, 97 (Md. Ct. Spec. App. 2011). Petitioner's resisting-arrest conviction thus disqualifies him from possessing firearms under 18 U.S.C. 922(g)(1).

A few years later, petitioner pleaded guilty to possessing a controlled dangerous substance other than marijuana, as well as a further offense of driving while intoxicated. See Pet. App. 4a. The drug-possession offense, though labeled a misdemeanor under Maryland law, was punishable by four years of imprisonment. See Md. Code Ann. art. 27, § 287(e) (West 2001). That drug-possession conviction, too, triggers Section 922(g)(1).

2. In 2023, petitioner filed this suit in federal district court in Maryland, naming federal and state officials as defendants. See Pet. App. 5a. He challenged both Sec-

tion 922(g)(1) and state laws disarming him based on his criminal record. See *id.* at 7a.

The district court dismissed the complaint. Pet. App. 3a-18a. The court determined that the Nation's historical tradition of firearm regulation supports "disarming those who have committed serious crimes." *Id.* at 17a.

The Fourth Circuit affirmed. Pet. App. 1a-2a. The court cited circuit precedent that foreclosed case-by-case as-applied challenges to Section 922(g)(1). See *id.* at 2a (citing *United States* v. *Hunt*, 123 F.4th 697, 702 (4th Cir. 2024), cert. denied, 145 S. Ct. 2756 (2025)).

ARGUMENT

Petitioner contends (Pet. 8-23) that Section 922(g)(1) violates the Second Amendment as applied to "persons convicted of non-violent crimes." Pet. 26 (emphasis omitted). For the reasons stated in the government's brief opposing certiorari in *Zherka* v. *Bondi*, No. 25-269 (Nov. 10, 2025) (*Zherka* Opp.), that contention does not warrant this Court's review at this time. See *id.* at 3-12.

As the government explained in *Zherka*, history and precedent establish the presumptive validity of Section 922(g)(1)'s disarmament of persons convicted of crimes punishable by imprisonment for a term exceeding one year. See *Zherka* Opp. at 3-6. Some lower courts have suggested that Section 922(g)(1) could raise constitutional concerns in some unusual applications, but the newly revitalized rights-restoration process under 18 U.S.C. 925(c) resolves those concerns. See *Zherka* Opp. at 6-8. When the government filed its brief in *Zherka*, only one court of appeals, the Third Circuit, had actually held Section 922(g)(1) unconstitutional in any application. See *id.* at 8-10 (citing *Range* v. *Attorney General*, 124 F.4th 218 (3d Cir. 2024) (en banc)). The Third Circuit's decision in *Range* predated the revitalization of

the Section 925(c) process and involved an individual who likely would have qualified for relief under that process. See *id.* at 9-10; Letter from D. John Sauer, Solicitor Gen., to Richard J. Durbin, Ranking Member, Senate Comm. on the Judiciary (Apr. 11, 2025).*

Since the government filed its brief in *Zherka*, the Fifth Circuit held in *United States* v. *Mitchell*, No. 24-60607, 2025 WL 3251467 (Nov. 21, 2025), that Section 922(g)(1) violated the Second Amendment as applied to a defendant who had a conviction for violating 18 U.S.C. 922(g)(3), which prohibits unlawful users of controlled substances from possessing firearms. 2025 WL 3251467, at *12-*13. The court observed that, under its precedent, Section 922(g)(3) generally violates the Second Amendment as applied to a defendant who was not "presently intoxicated" while possessing a firearm. *Id.* at *7. It then extended the same test to "a § 922(g)(1) [charge] with a § 922(g)(3) predicate offense." *Id.* at *9; see *id.* at *14-*18. It concluded that Section 922(g)(1) violated the Second Amendment as applied to the defendant because the government had provided insufficient evidence that the defendant "was actively under the influence * * * while in possession of a firearm," at the time of either his "§ 922(g)(1) offense" or his "§ 922(g)(3) offense." *Id.* at *17-*18.

The same circuit precedent concerning Section 922(g)(3) that underpinned the Fifth Circuit's decision in *Mitchell* is now before this Court in *United States* v. *Hemani*, No. 24-1234, cert. granted (Oct. 20, 2025). This Court's decision in *Hemani* could supersede that precedent and, as a result, the Fifth Circuit's extension of that precedent to Section 922(g)(1) convictions based on Section 922(g)(3) predicates. Because *Hemani* could

* https://www.justice.gov/oip/media/1398041/dl?inline

soon resolve any conflict among the circuits involving the Fifth Circuit's decision in *Mitchell*, that decision does not support granting certiorari to address the question presented at this time.

This case, at any rate, would be a poor vehicle for resolving the disagreement among the courts of appeals about how to address as-applied challenges to Section 922(g)(1). Petitioner argues (Pet. 32-33) that, although Section 925(c) may be "fine for dangerous felons who have been permissibly disarmed," non-violent criminals cannot be "lawfully disarmed in the first place." But he does not identify any court of appeals that has determined that the disarmament of non-violent criminals under Section 922(g)(1) automatically violates the Second Amendment. At most, the Third Circuit has held that the Second Amendment entitled an individual to regain the right to bear arms "decades after he was convicted of food-stamp fraud and completed his sentence," *Range*, 124 F.4th at 232, and the Fifth Circuit has held that a defendant with a particular predicate conviction could not be "permanently" disarmed, *Mitchell*, 2025 WL 3251467, at *1.

Petitioner argues (Pet. 2-3, 9) that his disqualifying convictions arise from his conduct when he was "an immature young man decades ago," that "[n]o one was ever threatened or hurt," and that he has "had no involvement with the criminal justice system and no negative interaction with law enforcement whatsoever" since then. His reliance on his particular circumstances just underscores that the appropriate course for petitioner to follow would be to seek relief under Section 925(c), as plaintiffs in several other civil suits challenging Section 922(g)(1) have done. That process would enable the government to investigate petitioner's claims

about his post-conviction record and to evaluate his apparent admission that he has previously engaged in conduct that violates Section 922(g)(1). See Pet. 3 (stating that petitioner has "personally owned and used long guns" for "many years" despite his disqualification under Section 922(g)(1)).

Petitioner separately argues (Pet. 32) that Section 925(c) is inadequate because any relief under that statute "would not address the Maryland state law" that independently prohibits him from possessing firearms. But while petitioner is correct to observe that Section 925(c) could not itself relieve him from any parallel state-law prohibition, that only underscores that this Court's review is not warranted at this time. Rather, this Court should allow the courts of appeals to address whether Section 925(c) resolves any constitutional concerns raised by specific applications of Section 922(g)(1) and whether a state law that lacks a similar opportunity for rights restoration violates the Second Amendment as applied to someone who qualifies for federal relief under Section 925(c). The possibility of a future case involving only a state law and arising in that distinct posture provides no basis to grant review here, where petitioner has not yet sought relief under Section 925(c) and his factual claims about his post-conviction record have not yet been investigated.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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