No. 25-458

IN THE

Supreme Court of the United States

WILLIAM COLLINS, III,

Petitioner,

v.

PAMELA BONDI, Attorney General, et al.,

Respondents.

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

REPLY BRIEF OF PETITIONER

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INTRODUCTION

The government asks this Court to continue to delay the inevitable. Meanwhile, the circuit courts of appeals are deeply divided on whether as-applied challenges are available under 18 U.S.C. § 922(g)(1), and our Nation's people are routinely subjected to uneven and unconstitutional restrictions on the fundamental right to bear arms.

The government's principal reason for delay is not that the split is illusory or unimportant, but that the Department of Justice recently "revitalized" a long-moribund § 925(c) relief-from-disabilities process. Opp. at 3. That argument cannot justify denying review. A discretionary, fee-based, executive-grace restoration program (that does not even bind the States) does not cure the violations of Collins's Second Amendment rights.

The Fourth Circuit adopted a blanket rule under which § 922(g)(1) and a parallel state ban may be applied to disarm permanently a non-dangerous citizen based on convictions for nonviolent offenses that would not have triggered permanent disarmament at the Founding.

This case is an exceptionally good vehicle to decide the constitutional issues presented. The courts below dismissed at the pleading stage under a categorical rule that forecloses as-applied challenges to both § 922(g)(1) and the comparable state disarmament laws. The Court should grant review to decide the critically important Questions Presented.

ARGUMENT

I. There is a clear circuit split regarding the Questions Presented.

Section 922(g)(1) permissibly disarms many felons based on the dangerous nature of their crimes. The circuit courts of appeals sharply disagree, however, about whether all felons may be categorically disarmed, regardless of whether their convictions would have led to disarmament at the Founding. Pet. at 10–17. The Third, Fifth, and Sixth Circuits have correctly held that individuals must be permitted to bring as-applied challenges to § 922(g)(1), whereas the Second, Eighth, Ninth, Tenth, and Eleventh Circuits, along with the Fourth Circuit in the decision below, have categorially barred as-applied challenges. In those circuits, every person convicted of a felony is automatically subject to lifetime disarmament, regardless of the nature of the conviction. *See id.*

The government does not dispute there is a split. To the contrary, the opposition highlights that the split has grown deeper since the petition was filed. As the government acknowledges, Opp. at 4, the Fifth Circuit held last month that § 922(g)(1), as applied to a defendant convicted under 18 U.S.C. § 922(g)(3), violates the Second Amendment. *United States v. Mitchell*, No. 24-60607, 2025 WL 3251467, at *12–13 (5th Cir. Nov. 21, 2025). The government attempts to minimize *Mitchell* and the split to which it contributes by contending that *Mitchell* may be overturned by this Court's decision in *United States v. Hemani*, No. 24-1234 (U.S. cert. granted Oct. 20, 2025).

But *Hemani* addresses a different question under a different statutory provision. The question in

Hemani is whether applying § 922(g)(3), the federal statute prohibiting possession of firearms by a person who "is an unlawful user of or addicted to any controlled substance," to the petitioner in that case violates the Second Amendment. Petition for Writ of Certiorari, *Hemani*, No. 24-1234 (U.S. June 2, 2025). It does not address the Questions Presented in this case regarding whether the Second Amendment precludes application of § 922(g)(1) (and the comparable state disarmament laws) to a person not convicted of any crime that would have resulted in disarmament at the Founding. The decision in *Hemani* will not resolve the split among lower courts regarding the much broader and quite different Questions Presented in this case.

II. Disarming Collins violates the Second Amendment.

1. The Government argues that review is unwarranted because § 922(g)(1) is presumptively constitutional. But no one disputes that § 922(g)(1) is often constitutional, i.e., as applied to people convicted of any felonies that would have supported disarmament at the Founding. *See* Pet. at 23. The issue here is whether § 922(g)(1) (and the comparable state disarmament laws) may be constitutionally applied to disarm people convicted of a felony that would not have been the basis for disarmament in 1791. Collins falls squarely into the latter category.

The government places great weight on its contention that even if § 922(g)(1) "could raise constitutional concerns in some unusual applications . . . the newly revitalized rights-restoration process under 18 U.S.C. § 925(c) resolves those concerns."

Opp. at 3 (citation omitted). That argument does not withstand scrutiny.

Rights do not require government permission slips. It is the government's obligation to act in a way that respects rights; it cannot foist its burden onto individuals. *See Melendez-Diaz v. Massachusetts*, 557 U.S. 305, 324 (2009) ("[T]he Confrontation Clause imposes a burden on the prosecution to present its witnesses, not on the defendant to bring those adverse witnesses into court.").

That is no less true for the Second Amendment than for other fundamental rights. The government has the burden to honor that right by not disarming American citizens who have the right to bear arms; citizens do not have an obligation to seek permission from the government to bear arms that they are constitutionally entitled to bear. *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 24 (2022) ("[T]he Government bears the burden of proving the constitutionality of its actions" (citation omitted)). Section 925(c)'s restoration process provides a path to lawful firearm possession for people whose initial disarmament did not violate the Second Amendment. But the process is insufficient to cure a disarmament that violates the Second Amendment.

Furthermore, the § 925(c) process does not even guarantee restoration of the right to bear arms to individuals, like Collins, whose disarmament violates the Second Amendment. Rather, an applicant for § 925(c) relief restoration of rights must affirmatively establish that restoration "would not be contrary to the public interest," 18 U.S.C. § 925(c), and by the Government's own description, the restoration

process does not evaluate whether the Second Amendment permits disarmament. *See* Opp. at 5–6.

Finally, the government's description of the § 925(c) regime as "newly revitalized rights-restoration process" highlights why that process is insufficient. *Id.* at 3. Section 925(c)'s restoration mechanism has gone largely unused for over 30 years. While the current Administration has prioritized rights restoration efforts, a future Administration may once again abandon the process, leaving individuals like Collins without any means to restore their rights. The bottom line is that the government does not satisfy its constitutional obligations by requiring a citizen to petition for discretionary relief from a violation of the citizen's unqualified constitutional right.

2. The existence of the federal § 925(c) restoration process could not resolve this case, anyway, because Collins also challenges his disarmament under Maryland state law to which § 925(c) unquestionably does not apply. The government's only response is that the Court should wait for a case "involving only a state law" that "lacks a similar opportunity for rights restoration" as under § 922(g)(1) to determine if such a law would "violate[] the Second Amendment as applied to someone who qualifies for federal relief under Section 925(c)." Opp. at 6.

But the Second Amendment violation results from the government (federal or state) disarming a person based on conviction for a crime that would not have resulted in disarmament at the Founding. The existence of a restoration provision akin to § 925(c) provides an avenue for anyone who is disarmed to seek discretionary relief and so may ameliorate a

constitutional violation in some cases. But the constitutional problem derives from the original disarmament itself, not from the lack of a process for a person to seek exemption from an unconstitutional disarmament. Accepting the government's argument would mean that any unconstitutional restriction could be excused if there is an *ex post* mechanism for a person to seek an exemption. For instance, the mere right to bring a lawsuit seeking an injunction to end unconstitutional conduct does not render the unconstitutional conduct constitutional. That is not and cannot be the law and it is not any reason for this Court to decline review in this case.

The fact that Collins was disarmed under both federal and state law magnifies the urgency and utility of review, because the Court can provide broad and much-needed guidance to the States, as well as to the federal government. However the Court may ultimately view the relevance of the § 925(c) restoration process on the constitutionality of § 922(g)(1), that process has no relevance to the parallel state law issue. To deny review in this case based on § 925(c) only delays the inevitable for no good reason.

III. This case is the ideal vehicle to decide the Questions Presented.

This case is an ideal vehicle to resolve the Questions Presented. First, there is no reasonable argument that Collins is or ever was dangerous. His prior convictions were for non-violent conduct, and he has been a law-abiding and responsible citizen for 25 years since his last conviction. Collins served no jail time for either of his prior convictions and neither

conviction would have supported a basis for disarmament at the Founding. Pet. at 2, 29–30.

The government's argument that this case is a poor vehicle because Collins has not sought relief under § 925(c) (a program that has not even yet gone into effect) misses the point. As explained above, the reinvigorated restoration regime does not answer the issues that this case squarely presents: Under what circumstances may an individual convicted of a non-violent felony be permissibly disarmed consistent with the Second Amendment?

Additionally, this case cleanly presents not only the issue of whether § 922(g)(1) may constitutionally be applied to individuals like Collins, but also the question whether parallel state law provisions may be so applied. This case thus is uniquely well-suited to permit the Court to define the Second Amendment principles governing felon-in-possession laws generally, both with and without a restoration process.

The split among the lower courts on the Questions Presented makes the need for this Court to provide clarity apparent. Collins has been disarmed because he lives in Maryland. If he moved a few miles up the road to Pennsylvania, within the Third Circuit, he could not be disarmed. The Court should grant the petition to resolve the important Questions Presented. Alternatively, rather than deny this Petition, this Court should hold it pending its decision on other petitions raising as-applied challenges to § 922(g)(1).[1]

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[1] Petitioner understands that there are multiple pending petitions raising as-applied challenges to § 922(g)(1), including,

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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Vincent v. Bondi, No. 24-1155 (U.S. petition for cert. filed May 8, 2025) and *Duarte v. United States*, No. 25-425 (U.S. petition for cert. filed Oct. 6, 2025), which have been relisted after being considered at three conferences. Neither of those relisted petitions include a challenge to a state disarmament law comparable to § 922(g)(1).