

IN THE SUPREME COURT OF THE UNITED STATES

JOSHUA WILLIS, 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

WILLIAM A. GLASER
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. 25-5009

JOSHUA WILLIS, 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. A16-A17) is available at 2025 WL 687029. A prior opinion of the court of appeals (Pet. App. A8-A9) is available at 2024 WL 857058.

JURISDICTION

The judgment of the court of appeals was entered on March 4, 2025. On May 29, 2025, Justice Gorsuch extended the time within which to file a petition for a writ of certiorari to and including July 2, 2025, and the petition was filed on that date. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a guilty plea in the United States District Court for the District of Colorado, petitioner was convicted of possessing a firearm as a felon, in violation of 18 U.S.C. 922(g)(1). Pet. App. A1. He was sentenced to 24 months of imprisonment, to be followed by three years of supervised release. Id. at A2-A3. The court of appeals affirmed. Id. at A8-A9, A16-A17.

1. In February 2022, the Colorado Springs Police Department received information that petitioner, who was on parole, was in possession of multiple firearms, was making threats to kill a police detective, and had been conducting surveillance at the detective's house. Presentence Investigation Report (PSR) ¶¶ 8, 17. Police officers located petitioner, stopped his car, and conducted a parole search, finding a loaded .22-caliber rifle, 2.3 grams of methamphetamine, and drug paraphernalia. PSR ¶¶ 9-12. Petitioner's criminal record included felony convictions for first-degree trespass of a dwelling, criminal impersonation, and aggravated motor vehicle theft, as well as a juvenile adjudication for second-degree burglary of a dwelling. PSR ¶¶ 35-38.

2. A federal grand jury indicted petitioner on one count of possessing a firearm as a felon, in violation of 18 U.S.C. 922(g)(1). Pet. App. A16. Petitioner moved to dismiss the indictment, arguing that Section 922(g)(1) violates the Second Amendment on its face and as applied to him. See ibid. The

district court denied the motion, and petitioner pleaded guilty while reserving his right to appeal. Ibid.

3. The court of appeals affirmed, rejecting petitioner's contention that Section 922(g)(1) violates the Second Amendment on its face and as applied to him. Pet. App. A8-A9. This Court 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. 122; Pet. App. A10-A12.

On remand, the court of appeals again rejected petitioner's contention that Section 922(g)(1) violates the Second Amendment on its face and as applied to him. Pet. App. A16-A17. The court held that petitioner's facial and as-applied challenges were foreclosed by circuit precedent. See ibid. (citing Vincent v. Bondi, 127 F.4th 1263 (10th Cir. 2025), petition for cert. pending, No. 24-1155 (filed Aug. 11, 2025)), and United States v. McCane, 573 F.3d 1037 (10th Cir. 2009), cert. denied, 559 U.S. 970 (2010)).

ARGUMENT

Petitioner renews his contention (Pet. 6-11) that Section 922(g)(1) violates the Second Amendment on its face and as applied to him. For the reasons set out in the government's brief opposing certiorari in French v. United States, No. 24-6623, 2025 WL 1426709 (May 19, 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 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).

Similarly, 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 re-establishment 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).

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 the question presented in Ms. Vincent's favor," then grant his petition "and

afford him the benefit of that ruling.” 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.

Additionally, petitioner was on parole in a state case when he violated Section 922(g)(1). See PSR ¶ 40. Every court of appeals to consider the question has accepted Section 922(g)(1)’s validity as applied to a convicted felon who is still on parole or another form of supervision. See United States v. Quailles, 126 F.4th 215, 221-224 (3d Cir. 2025), petition for cert. pending, No. 24-7033 (filed Apr. 14, 2025); United States v. Moore, 111 F.4th 266, 272 (3d Cir. 2024), cert. denied, No. 24-968, 2025 WL 1787742 (June 30, 2025); United States v. Giglio, 126 F.4th 1039, 1042-1046 (5th Cir. 2025); United States v. Goins, 118 F.4th 794, 804-805 (6th Cir. 2024); United States v. Gay, 98 F.4th 843, 847 (7th Cir. 2024); see also Range v. Attorney General, 124 F.4th 218, 232 (3d Cir. 2024) (en banc) (emphasizing that the challenger had “completed his sentence”). Thus, petitioner cannot show that any decision in Vincent would afford him relief.

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

WILLIAM A. GLASER
Attorney

AUGUST 2025