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IN THE SUPREME COURT OF THE UNITED STATES

JACOB GRAVES,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent,

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

PETITION FOR WRIT OF CERTIORARI

SCOTT A. GRAHAM
Federal Public Defender

NICOLE D. HERRON
Assistant Federal Public Defender
Counsel of Record for Petitioner
112 North 7th Street
Muskogee, Oklahoma 74401
(918) 687-2430
nicole_herron@fd.org

QUESTION PRESENTED

Whether Mr. Graves' conviction under 18 U.S.C. § 922(g)(1) is unconstitutional under the Second Amendment in light of *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022) and *United States v. Rahimi*, 602 U.S. 680 (2024).

RELATED PROCEEDINGSU.S. District Court:

On June 7, 2024, judgment was entered against Petitioner Jacob Graves in *United States v. Graves*, No. 6-23-CR-00156-RAW-1 (E.D. Okla. June 7, 2024). App. A1-A7.

U.S. Court of Appeals:

On April 14, 2025, the Tenth Circuit affirmed Mr. Graves' conviction in an unpublished decision, *United States v. Graves*, No. 24-7051, 2025 WL 1096984 (10th Cir. 2025). App. A8-A9.

PETITION FOR A WRIT OF CERTIORARI

Petitioner, Jacob Graves, respectfully petitions for a writ of certiorari to review the order and judgment of the United States Court of Appeals for the Tenth Circuit entered on April 14, 2025.

OPINION BELOW

The Tenth Circuit’s unreported opinion in Mr. Graves’ case is available at 2025 WL 1096984 (10th Cir. 2025) and is in the Appendix at A8-A9. The district court’s judgment is included at App. A1-A7.

JURISDICTION

The United States District Court for the Eastern District of Oklahoma had jurisdiction in this criminal action pursuant to 28 U.S.C. § 3231. The Tenth Circuit had jurisdiction pursuant to 28 U.S.C. § 1291 and entered judgment on April 14, 2025. *See App. A8-A9.* This Court has jurisdiction pursuant to 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Second Amendment of the United States Constitution, U.S. CONST. amend. II, provides:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

18 U.S.C. § 922(g)(1) provides:

It shall be unlawful for any person ... who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year ... to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

18 U.S.C. §921(a)(20) provides:

The term “crime punishable by imprisonment for a term exceeding one year” does not include –

- (A) Any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or
- (B) 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.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

STATEMENT OF THE CASE

The Petitioner, Jacob Graves, was charged in Count One with Felon in Possession of a Firearm in violation of 18 U.S.C. § 922(g)(1) (hereinafter “Section 922(g)(1)”) and in Count Two with Eluding a Peace Officer in Indian Country in violation of 18 U.S.C. §§ 1151, 1152, 13, & 21 O.S. § 540(A) & (B) in the Eastern District of Oklahoma. The § 922(g)(1) charge stemmed from Mr. Graves’ possession of a handgun on February 11, 2023. He moved to dismiss the § 922(g)(1) count in the indictment under the Second Amendment, arguing that, in light of *New York State Rifle Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022), section 922(g)(1) was facially unconstitutional. By that time, however, he acknowledged that his claims were foreclosed by Tenth Circuit precedent, specifically *Vincent v. Garland*, 80 F.4th 1197 (10th Cir. 2023) (relying on *United States v. McCane*, 573 F.3d 1037 (10th Cir. 2009)), and he presented them for preservation only. The district court denied his motion to dismiss. Mr. Graves entered a guilty plea in the Eastern District of Oklahoma to one count of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1) and one count of Eluding a Peace Officer in Indian Country in violation of 18 U.S.C. §§ 1151, 1152, 13, & 21 O.S. § 540(A) & (B).

On appeal, Mr. Graves pressed his challenge with respect to Count One under *Bruen*, contending that § 922(g)(1) was facially unconstitutional. By that time, however, he acknowledged

that his claims were foreclosed by Tenth Circuit precedent, specifically *Vincent v. Garland*, which held that pre-*Bruen* circuit precedent foreclosing both facial and as applied challenges to section 922(g)(1) remained good law after *Bruen* and that the statute was, therefore, constitutional. 80 F.4th 1197 (10th Cir. 2023) (relying on *United States v. McCane*, 573 F.3d 1037 (10th Cir. 2009)). Accordingly, Mr. Graves presented his claim for preservation only, and the Tenth Circuit affirmed based on *Vincent*. See App. at A8-A9.

At that time, however, multiple petitions for certiorari addressing the constitutionality of section 922(g)(1)—including in *Vincent*—also were pending before the Supreme Court. After this Court determined in *United States v. Rahimi*, 602 U.S. 680 (2024), that section 922(g)(8), which prohibits firearm possession while subject to a domestic violence restraining order, was constitutional, this Court granted certiorari in those pending petitions challenging section 922(g)(1), vacated the judgments, and remanded “for further consideration in light of” *Rahimi*. See, e.g., See *Vincent v. Garland*, 80 F.4th 1197 (10th Cir. 2023), *cert. granted, judgment vacated*, No. 23-683, 2024 WL 3259668 (U.S. July 2, 2024); *Range v. Att’y Gen. United States of Am.*, 69 F.4th 96 (3d Cir. 2023), *cert. granted, judgment vacated sub nom. Garland v. Range*, No. 23-374, 2024 WL 3259661 (U.S. July 2, 2024); *United States v. Jackson*, 69 F.4th 495, 506 (8th Cir. 2023), *cert. granted, judgment vacated*, No. 23-6170, 2024 WL 3259675 (U.S. July 2, 2024).

On remand in *Vincent*, however, the Tenth Circuit again rejected the arguments that section 922(g)(1) was unconstitutional, for the same reasons as before; that is, that its pre-*Bruen*, pre-*Rahimi* circuit precedent categorically upholding section 922(g)(1) “remains binding.” *Vincent v. Bondi*, 127 F.4th 1263, 1265-66 (10th Cir. 2025). Accordingly, the *Vincent* panel “readopt[ed] [its] prior opinion.” *Id.* at 1266.

The Tenth Circuit then denied Mr. Graves’ claim as again foreclosed by *Vincent*, see App. at A8-A9, and this petition follows.

REASONS FOR GRANTING THE WRIT

When Mr. Graves appealed to the Tenth Circuit, the circuit's new, post-*Rahimi* decision in *Vincent* foreclosed his claim. *See* App. at A8-A9. A petition for a writ of certiorari in *Vincent* is currently pending before this Court. *See Vincent v. Bondi*, Sup. Ct. case no. 24-1155 (filed May 8, 2025). This Court should grant the *Vincent* petition for the reasons articulated therein: namely, that even after *Rahimi* the circuits are starkly split over section 922(g)(1)'s validity, the Tenth Circuit's decision in *Vincent* (2025) is wrong, the issue is important and recurring, and Ms. Vincent's case is a good vehicle to resolve the question. As this Court's determination of *Vincent* will control the outcome of Mr. Graves' case before the Tenth Circuit, he respectfully requests that this Court hold his petition until *Vincent*'s resolution, and, thereafter, grant this petition for a writ of certiorari, vacate the underlying judgment, and remand for reconsideration in light of the resolution of *Vincent*.

CONCLUSION

The Court should grant the petition in *Vincent* and grant Ms. Vincent relief. Thereafter, it should grant this petition for a writ of certiorari, vacate the underlying judgment, and remand for reconsideration in light of the resolution of *Vincent*. For the foregoing reasons, Mr. Graves respectfully requests that this Court grant his petition for a writ of certiorari.

Respectfully submitted,

Scott Graham
Federal Public Defender

/s/ Nicole Dawn Herron
Nicole Dawn Herron
Assistant Federal Public Defender
Counsel of Record
112 N. 7th Street
Muskogee, Oklahoma 74403
(918) 687-2430
nicole_herron@fd.org

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