No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2025

JEFFREY SREDL,

PETITIONER,

vs.

UNITED STATES OF AMERICA,

RESPONDENT.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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QUESTION PRESENTED

Whether under *N.Y. State Rifle & Pistol Ass'n v. Bruen,* prosecution for possession of homemade unregistered firearms that were in common use at the time of the founding violates the Second Amendment.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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Petitioner, JEFFREY SREDL, respectfully prays that a writ of certiorari issue to review the order of the United States Court of Appeals for the Seventh Circuit, issued on April 11, 2025, affirming the Petitioner's convictions and sentences.

OPINION BELOW

The decision of the United States Court of Appeals for the Seventh Circuit dated April 11, 2025, appears in Appendix A to this Petition at page 1 and is an unpublished order. The written ruling of the United States District Court for the Northern District of Indiana appears in Appendix A to this Petition at page 3 and is reported at *United States v. Sredl,* 2023 U.S. Dist. LEXIS 89697 (N.D. Ind. May 23, 2023).

JURISDICTION

1. The Northern District of Indiana originally had jurisdiction pursuant to 18 U.S.C. § 3231, which provides exclusive jurisdiction of offenses against the United States.

2. Thereafter, Petitioner timely appealed his conviction and sentence to the United States Court of Appeals for the Seventh Circuit pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742.

3. Petitioner seeks review in this Court of the judgment and opinion of the United States Court of Appeals for the Seventh Circuit affirming his sentence pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Second Amendment to the United States Constitution

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.

26 U.S.C. § 5841. Registration of firearms.

(a) Central registry. The Secretary shall maintain a central registry of all firearms in the United States which are not in the possession or under the control of the United States. This registry shall be known as the National Firearms Registration and Transfer Record. The registry shall include—

(1) identification of the firearm;

(2) date of registration; and

(3) identification and address of person entitled to possession of the firearm.

(b) By whom registered. Each manufacturer, importer, and maker shall register each firearm he manufactures, imports, or makes. Each firearm transferred shall be registered to the transferee by the transferor.

(c) How registered. Each manufacturer shall notify the Secretary of the manufacture of a firearm in such manner as may by regulations be prescribed and such notification shall effect the registration of the firearm required by this section. Each importer, maker, and transferor of a firearm shall, prior to importing, making, or transferring a firearm, obtain authorization in such manner as required by this chapter [26 USCS §§ 5801 et seq.] or regulations issued thereunder to import, make, or transfer the firearm, and such authorization shall effect the registration of the firearm required by this section.

(d) Firearms registered on effective date of this Act. A person shown as possessing a firearm by the records maintained by the Secretary pursuant to the National Firearms Act in force on the day immediately prior to the effective date of the National Firearms Act of 1968 [effective Nov. 1, 1968] shall be considered to have registered under this section the firearms in his possession which are disclosed by that record as being in his possession.

(e) Proof of registration. A person possessing a firearm registered as required by this section shall retain proof of registration which shall be made available to the Secretary upon request.

26 U.S.C. § 5845(e) Definitions.

(e) Any other weapon. The term "any other weapon" means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may

be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

26 U.S.C. § 5861(d) Prohibited acts.

It shall be unlawful for any person—

. . .

(d) to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record;

26 U.S.C. § 5871 Penalties.

Any person who violates or fails to comply with any provision of this chapter shall, upon conviction, be fined not more than $10,000, or be imprisoned not more than ten years, or both.

STATEMENT OF THE CASE

On June 7, 2022, Petitioner Jeffrey Sredl possessed several "slam-fire" devices that he made on his property in Logansport, Indiana. (Dkt. 98, p. 12.) A slam-fire device is a firearm which, in this case, involved a 12-gauge fixed cartridge loaded in the rear of a barrel and slammed into the body section of the firearm. (Dkt. 79, p. 6.) An ATF agent explained that, "when the primer of the 12-gauge cartridge is struck by the fixed firing pin, the device is designed to expel a projectile by the action of an explosive." (Dkt. 79, p. 6.) Mr. Sredl possessed several of these devices he made with pipes and other items on his property. (Dkt. 79, p. 7.) He was charged with possession of unregistered firearms on March 8, 2023, in the Northern District of Indiana. (Dkt. 42.)

Mr. Sredl filed a motion to dismiss the indictment on February 10, 2023, arguing the prosecution against him for possessing unregistered firearms violated the Second Amendment. (Dkt. 36.) He argued his conduct fell within the protections of the Second Amendment and the registration requirements under 26 U.S.C. §§ 5841 and 5861(d) violate the Second Amendment because they condition lawful possession on burdensome registration requirements. (Dkt. 36.) The district court held a motion hearing on May 15, 2023, but took the matter under advisement. (Dkt. 60.) On May 23, 2023, the district court denied the motion to dismiss, finding that weapons regulated under § 5861 are outside

of the Second Amendment's scope because they are "unusual and dangerous weapons." (App. A, p. 11). The court further held,

> The National Firearms Act generally, and § 5861 specifically, target unusual and dangerous weapons. The Act regulates weapons capable of vast and indiscriminate destruction, like mines, missiles, and grenades, 26 U.S.C. § 5845(f), and weapons that pack a punch yet are easy to conceal, like "any weapon or device capable of being concealed on the person from which a shot can be discharged." *Id.* § 5845(e). For the same reason as there's no right to possess a short-barrel shotgun – it's "not typically used by law-abiding citizens for lawful purposes." *District of Columbia v. Heller*, 554 U.S. [570,] 624 [2008] – there is no Second Amendment right to possess dangerous and unusual weapons in the form of "destructive devices" or "any other weapon."

(App. A, p. 11.)

Mr. Sredl pled guilty to Count 1 of the superseding indictment, which charged him with knowingly possessing a firearm, namely a ".22 caliber pipe/slam fire device" that qualified as "any other weapon" as defined in 26 U.S.C. § 5845(e), not registered to him in the National Firearms Registration and Transfer Record, in violation of 26 U.S.C. §§ 5841, 5861(d), and 5871. (Dkt. 42.) On January 11, 2024, the district court sentenced him to 51 months in prison, one year of supervised release, and a $100 special assessment. (Dkt. 91.)

Mr. Sredl appealed his conviction to the United States Court of Appeals for the Seventh Circuit. (Dkt. 92.) The Seventh Circuit suspended briefing in Mr. Sredl's case pending the decision in a case raising similar issues, *United States v. Jamond Rush,* Case Number 23-3256. The Seventh Circuit decided *Rush* on March

10, 2025, affirming the district court's denial of his motion to dismiss on Second Amendment grounds. *United States v. Rush,* 130 F.4th 633 (7th Cir. 2025). The Court summarily affirmed Mr. Sredl's case based on *Rush* on April 11, 2025. (App. A, p. 1.) A petition for writ of certiorari was filed with this Court in *Rush* on June 6, 2025. *See Rush v. United States,* Supreme Court Case Number 24-1259. That petition remains pending and there issues raised herein are substantially similar to those raised in *Rush.*

REASONS FOR GRANTING THE WRIT

Jeffrey Sredl has a felony conviction and is serving a sentence of 51 months in prison for his possession of a firearm that he made at home, which was common at the time of the founding and for lawful purposes. The Seventh Circuit summarily affirmed his conviction and sentence based on its decision in *United States v. Rush,* 130 F.4th 633 (7th Cir. 2025). The Seventh Circuit has repeatedly ruled in conflict with this Court's precedent regarding the Second Amendment. In *Rush,* it dismissed short-barreled rifles' "popularity" and "prolif[eration]" as having "little jurisprudential value," while concluding that Rush failed to prove that they are "commonly used" for lawful purposes. *Id.* at 644. The Seventh Circuit's decision in *Rush* conflicts with decisions of this Court, which have repeatedly held that the Second Amendment applies to *all* bearable arms. *See District of Columbia v. Heller*, 554 U.S. 570, 582 (2008); *Caetano v. Massachusetts*, 577 U.S. 411, 411 (2016); *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 28 (2022); *United States v. Rahimi*, 602 U.S. 680, 691 (2024). This Court has also held that the Second Amendment protects arms "in common use at the time." *Heller*, 554 U.S. at 627. The Seventh Circuit has rejected this reasoning, stating this Court's "common use" test is a "circular," not "very helpful," "slippery concept" that "would have anomalous consequences," *Bevis v. City of Naperville*, 85 F.4th 1175 1190, 1198-99 (7th Cir. 2023).

Although the Seventh Circuit claimed that its test is "basically compatible with *Bruen*," *Bruen*'s author, joined by *Heller*'s author, condemned it for "flout[ing] . . . our Second Amendment precedents." *Friedman v. City of Highland Park*, 577 U.S. 1039, 1043 (2015) (Thomas, J., dissenting from the denial of certiorari). The Seventh Circuit further erred by relying on historical analogues that share neither a "how" nor a "why" with Section 5861(d), and by misreading *United States v. Miller*, 307 U.S. 174 (1939) as foreclosing any challenge to Section 5861(d).

Mr. Sredl's case was summarily affirmed after *Rush* but the Seventh Circuit's interpretation of dangerous and unusual weapons and common use in *Rush* was misapplied. In the United States, there is a long tradition from the time of the founding of homemade gun-making without a correlative requirement for compulsory registration or criminal liability for the possessor if not registered to him. See Testimony of Ashley Hlebinsky, *United States Senate Subcommittee on the Constitution, Committee on the Judiciary Stop Gun Violence: Ghost Guns* (May 11, 2021) (stating that from "[u]ntil the late 1700's and the emergence of armories, gun-making was primarily a civilian activity.") Despite the commonality of homemade firearms at the time of the founding, registration requirements and criminal sanction for any and all possession of a firearm unregistered to the possessor are undoubtedly a twentieth century regulatory firearm innovation.

Indeed, there is nothing sophisticated or novel about the crude device Mr. Sredl allegedly possessed. That the founding generation did not impose registration requirements, or more importantly, criminal possession restrictions on the failure to register such primitive firearm devices is strong indicia that there is no founding era tradition of criminalizing Mr. Sredl's firearm possession. The fact that homemade firearms were known at the time of the founding, but not required to be registered and criminally unregulated obviates the need for the government to offer a historical analogue. *See, Bruen*, 597 U.S. at 27 (reasoning that if earlier generations did not prohibit the conduct, or if it was regulated "through materially different means," then the present prohibition likely violates the Second Amendment).

The challenged statutes criminalize all unregistered firearm possession for any purpose, including self-defense in the home, merely because the firearm is not registered to the possessor. Though homemade or simple firearms were common at the time of the founding, the challenged criminal restriction here was unknown, and as a result, fails the *Bruen* history and tradition test. Accordingly, because the instant proceeding violates Mr. Sredl's Second Amendment rights facially and as-applied, the Court should grant certiorari and reverse the Seventh Circuit's contrary ruling.

"The Court must not permit 'the Seventh Circuit to relegate the Second Amendment to a second-class right,'" *Harrel v. Raoul*, 144 S. Ct. 2491, 2493 (2024) (Statement of Thomas, J.), *quoting Friedman*, 577 U.S. at 1043 (Thomas, J., dissenting from the denial of certiorari). Because the Seventh Circuit has repeatedly ignored this Court's rulings, this Court "must provide more guidance on which weapons the Second Amendment covers." *Harrel,* 144 S. Ct. at 2492.

I. The National Firearms Act violates the Second Amendment.

The challenged statutes are part of the current National Firearms Act which "establishes taxation, registration, reporting, and recordkeeping requirements for businesses and transactions involving statutorily defined firearms, and requires that each firearm be identified by a serial number." *Staples v. United States,* 511 U.S. 600, 627-28 (1994) (Stevens, J., Blackmun, J. dissenting). The National Firearms Act is part of Subtitle E of Title 26, and is identified as "Tobacco, and Certain Other Excise Taxes."

The National Firearms Act, however, is not solely a taxation or records keeping piece of firearm regulation and restriction. Under the National Firearms Act "[t]he Secretary of the Treasury must maintain a central [firearm] registry that includes the names and addresses of persons in possession of all firearms not controlled . . . by the Government." *Staples*, 511 U.S. at 602. The "National Firearms Act, . . . 26 U.S.C. §§ 5801-5872, imposes strict registration requirements

on statutorily defined firearms." *Id.* Under the law "Congress also prohibited certain acts and omissions, including the possession of an unregistered firearm" and imposed criminal sanctions for possession of an unregistered firearm. *Id.* To that end, § 5871 establishes that "[a]ny person who violates or fails to comply with any provision of the [central registry], upon conviction, be fined not more than $10,000 or be imprisoned not more than ten years, or both." Section 5861(d) also prohibits a person from receiving or possessing "a firearm which is not registered to him in the National Firearms Registration and Transfer Record. . . ." Significantly, § 5861(d) includes no scienter or *mens rea* requirement; a knowingly requirement has been read into the statute by the United States Supreme Court. *See Staples,* 511 U.S. at 619.

Mr. Sredl's motion to dismiss was a challenge to the government's authority to criminalize the exercise or potential exercise, of the cardinal Second Amendment right to keep and bear firearms. In *Bruen*, this Court held that any firearm restriction affecting or burdening the Second Amendment right to firearm possession must satisfy the nation's historical tradition of firearm regulation. Mr. Sredl's prosecution fails the *Bruen* test. The government cannot demonstrate that Mr. Sredl's criminal prosecution for mere possession of a firearm not registered to him is consistent with the national historical tradition of firearm regulation as understood from the time of the founding.

II. The circuit splits on how to adjudicate restrictions on categories of arms.

"Since the Supreme Court issued *Bruen*, courts across the country have struggled to answer the many questions resulting from the Court's new analytical framework." *Maryland Shall Issue, Inc. v. Moore*, 116 F.4th 211, 229 (4th Cir. 2024) (en banc); *see also United States v. Claybrooks*, 90 F.4th 248, 256 (4th Cir. 2024) ("The contours of *Bruen* continue to solidify in district and appellate courts across the nation, and yet there is no consensus.") In particular, "the debate as to what constitutes a 'bearable arm' covered by the Second Amendment has revitalized relevance." *United States v. Daniels*, 77 F.4th 337, 358 n.8 (5th Cir. 2023) (Higginson, J., concurring), *cert. granted, judgment vacated*, 144 S. Ct. 2707 (2024). This case, like *Rush,* presents several issues that are dividing lower courts and is a suitable vehicle for the Court to clarify what "arms" the Second Amendment protects.

A. The split over whether all firearms are "arms."

The Eighth Circuit has recognized that, "the defined term 'arms' . . . applie[s[. . . 'to all instruments that constitute bearable arms.'" *Worth v. Jacobson*, 108 F.4th 677, 690 (8th Cir. 2024), *quoting Heller*, 554 U.S. at 582. But several other Circuits have excluded various types of firearms from the scope of the Second Amendment's plain text.

The Fourth Circuit held that firearms with obliterated serial numbers are not "arms" covered by the Second Amendment's text, because the court could think of "no compelling reason why a law-abiding citizen would use" one. *United States v. Price,* 111 F.4th 392, 406 (4th Cir. 2024) (en banc). The Fourth Circuit also held that AR-15 rifles and similar firearms are not "arms," based on the court's determination that they are "most useful in military service." *Bianchi v. Brown*, 111 F.4th 438, 459 (4th Cir. 2024) (en banc). At least one justice of this Court has posited otherwise, stating, "AR–15s are clearly 'Arms' under the Second Amendment's plain text." *Snope v. Brown*, 2025 WL 1550126, *2 (U.S. June 2, 2025) (Thomas, J., dissenting from the denial of certiorari).

The Seventh Circuit concluded that AR-15 rifles and similar firearms are not "arms" because they are "indistinguishable from" the M16. *See Bevis*, 85 F.4th at 1197. Again, at least one justice of this Court believes otherwise, stating "Semi-automatic . . . rifles are distinct from automatic firearms such as the M–16 automatic rifle used by the military." *Snope*, 2025 WL 1550126 at *1 (Kavanaugh, J., statement respecting the denial of certiorari). In *Rush*, the Seventh Circuit "decline[d] to make a step one finding that short-barreled rifles are 'arms' protected by the Second Amendment's text." *Rush,* 130 F.4th at 640.

B. The circuit split over "common use."

The Fourth Circuit recently stated, "the Supreme Court has not elucidated

a precise test for determining whether a regulated arm is in common use for a lawful purpose." *Price*, 111 F.4th at 403; *Friedman*, 784 F.3d at 409 ("[W]hat line separates 'common' from 'uncommon' ownership is something the Court did not say.") Some courts hold that the total number of a particular weapon in circulation is what matters. The Second Circuit found banned semiautomatic firearms and magazines to be "'in common use' as that term was used in *Heller*," because "Americans own millions of" each. *New York State Rifle & Pistol Ass'n, Inc. v. Cuomo*, 804 F.3d 242, 255 (2d Cir. 2015), *abrogated on other grounds by Bruen*, 597 U.S. at 1. The Fifth Circuit considered the number of the restricted arms lawfully possessed and the number of states in which they could be lawfully possessed, *Hollis v. Lynch*, 827 F.3d 436, 449 (5th Cir. 2016), *abrogated on other grounds by United States v. Diaz,* 116 F.4th 458 (5th Cir. 2024).

But other courts have rejected a "common use" test that is based on how commonly the arms are possessed. The Ninth Circuit "reject[ed] that simplistic approach," since it prevents a legislature from banning an arm "no matter how rarely" it is actually employed "in armed self-defense." *Duncan v. Bonta*, 133 F.4th 852, 882-883 (9th Cir. 2025). The First Circuit rejected the assertion that "the constitutionality of arms regulations is to be determined based on the ownership rate of the weapons at issue." *Ocean State Tactical, LLC v. Rhode Island,* 95 F.4th 38, 51 (1st Cir. 2024). The court focused on how a challenged regulation "might

burden the right of armed self-defense" regardless of the arm's commonality. *Id.* at 45.

In *Bianchi,* the Fourth Circuit derided the "common use" test as an "ill conceived popularity test" that "leads to absurd consequences." *Bianchi*, 111 F.4th at 460. As a result, The court sometimes "appl[ies] common sense" to "consider whether there are any reasons a law-abiding citizen would want to use a particular weapon for a lawful purpose." *Price*, 111 F.4th at 405. But "when it comes to AR-15s, the [court] refuses to consider their common usage at all, choosing instead to replace Americans' opinions of their utility with its own." *Bianchi*, 111 F.4th at 524 (Richardson, J., dissenting).

The Seventh Circuit in *Rush* asserted that "a firearm's popularity in contemporary times has little jurisprudential value, on its own, in a 'commonality' analysis." *Rush,* 130 F.4th at 644, n. 12; *citing Friedman*, 784 F.3d at 409. "[T]o base our assessment of the constitutionality of these laws on numbers alone," the court claimed, "would have anomalous consequences." *Id.* at 644; *quoting Bevis*, 85 F.4th at 1198–99. Indeed, the Seventh Circuit has long held that "relying on how common a weapon is at the time of litigation would be circular[.]" *Friedman,* 784 F.3d at 409. While common usage of homemade weapons has some weight in Mr. Sredl's case, common usages at the time of the founding is tantamount. Homemade weapons were exceedingly common at the

founding, making this Court's resolution of the common use test in this case important.

C. The circuit split regarding "dangerous and unusual."

Circuit Courts are conflicted over whether weapons must be "dangerous *or* unusual" or "dangerous *and* unusual" to fall outside the Second Amendment's scope. This Court has demonstrated that an arm loses Second Amendment protection only if it is dangerous *and* unusual, as noted by multiple lower courts. First, the Court "carefully uses the phrase 'dangerous and unusual arms.'" *Miller v. Bonta*, 699 F. Supp. 3d 956, 969 (S.D. Cal. 2023). Second, after determining that the Massachusetts Supreme Judicial Court's analysis of whether stun guns were "unusual" was flawed, the Court declined to consider whether stun guns qualified as "dangerous." *Caetano,* 577 U.S. at 412. If dangerousness alone sufficed to justify a prohibition, the Court would have considered the dangerousness of stun guns. It did not. Justice Alito made this point explicitly in the concurrence: "As the per curiam opinion recognizes, this is a conjunctive test: A weapon may not be banned unless it is both dangerous and unusual. Because the Court rejects the lower court's conclusion that stun guns are "unusual," it does not need to consider the lower court's conclusion that they are also "dangerous."" *Id.* at 417 (Alito, J., concurring), *citing Heller*, 554 U.S. at 636.

Nevertheless, some courts read "dangerous and unusual" as "dangerous

or unusual." The en banc Fourth Circuit held that "excessively dangerous arms . . . fall outside the reach of the right," without finding how unusual the arms are. *Bianchi*, 111 F.4th at 450. Similarly, the D.C. Circuit determined that "dangerous and unusual" weapons include "uncommonly dangerous" arms, no matter how common they are. *Hanson v. Smith*, 120 F.4th 223, 238 n.7 (D.C. Cir. 2024). The First Circuit, on the other hand, adopted an expansive reading of "unusual," determining that "the degree of harm [an arm] causes," as opposed to its "prevalence in society," may make an arm unusual. *Ocean State Tactical, LLC,* 95 F.4th at 50–51.

Several dissenting judges, however, have argued for the conjunctive test that this Court recognized in *Caetano*. *See Bianchi*, 111 F.4th at 506 n.31 (Richardson, J., dissenting) ("[H]istory and tradition require a weapon to be both dangerous and unusual - not merely dangerous or unusual."); *Hanson*, 120 F.4th at 263 (Walker, J., dissenting) ("A weapon may not be banned unless it is both dangerous and unusual."); *Bevis*, 85 F.4th at 1215 (Brennan, J., dissenting) ("Recall the test is 'dangerous and unusual'").

In sum, "Bruen has proven to be a labyrinth for lower courts" and they "are asking for help." *Bianchi*, 111 F.4th at 473–74 (Diaz, J., concurring). This case presents an opportunity to provide clarity and resolve several splits among the federal Circuit Courts.

III. The Seventh Circuit's reliance on *Miller* was misplaced.

In *Rush,* the Seventh Circuit relied on *Miller*, which upheld the NFA's restrictions on short-barreled shotguns, "is dispositive and brings Rush's challenge to a halt." *Rush,* 130 F.4th at 638. The court's reliance on *Miller* was inappropriate in this case.

Miller did not make a definitive holding that the firearms in question were not protected arms. The defendants were not involved in the case and the Court did not have "any evidence tending to show" the firearms were protected and declined to take judicial notice that they were. *See Heller*, 554 U.S. at 623; *Miller*, 307 U.S. at 178. The Court stated in *Miller,* "we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument." *Id.* Wrong relying on this, the Seventh Circuit held the "Second Amendment does not guarantee the right to possess" such firearms. *Rush,* 130 F.4th at 636. As a result, *Miller* stands only for the proposition that the NFA's restrictions are valid as applied to arms that are not protected by the Second Amendment. But this says nothing about arms that are protected, like the homemade firearms in this case.

Even if *Miller* is read as holding that short-barreled shotguns were unprotected arms in 1939, it cannot foreclose a challenge to restrictions on such

arms nearly 90 years later because, as *Heller* explained, "*Miller* said . . . that the sorts of weapons protected were those 'in common use at the time.'" *Heller*, 554 U.S. at 627, *quoting Miller,* 307 U.S. at 179. Homemade weapons were common at the time. The *Miller* case says nothing about whether homemade firearms are in common use today or at the time of the founding.

Even though *Miller* did not involve homemade firearms, the Seventh Circuit determined that *Miller* precluded Rush's challenge because short-barreled shotguns and short-barreled rifles both "are long guns with shortened barrels, which are dangerous because they are more powerful than traditional handguns yet are easier to conceal," and because "both involve a characteristic that makes the firearm especially attractive to criminals while adding little—if any—functionality to the firearm for lawful use." *Rush,* 130 F.4th at 637. But none of these reasons provides sufficient justification for holding that *Miller* precludes a challenge to the NFA's restrictions on homemade firearms.

CONCLUSION

For the foregoing reasons, the Court should grant the petition for a writ of certiorari.

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