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IN THE
SUPREME COURT OF THE UNITED STATES

ANDREW REESE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

**APPENDIX
TO
PETITION FOR WRIT OF CERTIORARI**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action No. 23-CR-00111-RM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANDREW REESE,

Defendant.

REPORTER'S TRANSCRIPT
Hearing on Motions

Proceedings before the HONORABLE RAYMOND P. MOORE,
Judge, United States District Court for the District of
Colorado, commencing at 10:05 a.m., on the 12th day of
September, 2023, in Courtroom A601, United States Courthouse,
Denver, Colorado.

APPEARANCES

Kristin Coccaro, U.S. Attorney's Office,
1801 California Street, Suite 1600, Denver, CO 80202, appearing
for the plaintiff.

Timothy O'Hara, Office of the Federal Public Defender,
633 17th Street, Suite 1000, Denver, CO 80202, appearing for
the defendant.

Proceeding Recorded by Mechanical Stenography, Transcription
Produced via Computer by Janet M. Coppock, 901 19th Street,
Room A257, Denver, Colorado, 80294, (303) 335-2106

1 PROCEEDINGS

2 *THE COURT:* 23-CR-111, United States v. Andrew Reese.

3 We are here for a motions hearing.

4 Appearances, please.

5 *MS. COCCARO:* Good morning, Your Honor. Kristin

6 Coccaro on behalf of the United States.

7 *THE COURT:* Good morning to you.

8 *MR. O'HARA:* Good morning, Your Honor. Timothy O'Hara
9 here on behalf of Mr. Reese. He is seated beside me. He is in
10 custody.

11 *THE COURT:* Good morning to you. Good morning to him.
12 Good morning. Good morning as well to Ms. Snyder. And I don't
13 mean to be, I don't know, smart-alecky about that. Ultimately
14 identical motions were filed in a case of hers that's set after
15 this one. At one point I was thinking I should bring them
16 together, but I considered that to be something I was not going
17 to do because it may be more confusing to individual defendants
18 who wouldn't necessarily pick up on what was happening. But I
19 acknowledge her presence and certainly I understand that she is
20 here likely believing correctly that it's hardly likely that I
21 will rule one way at 10:00 o'clock and then a completely
22 different way at 11:00 o'clock on the exact same day on the
23 exact same motions.

24 *MR. O'HARA:* She is pretty convincing, Your Honor.

25 *THE COURT:* All right. Well, we'll see. That's for

1 an hour from now.

2 So there are two motions pending before me. The first
3 one I want to talk about is the commerce clause issue. That's
4 ECF No. 22, the motion to dismiss the felon with a gun charge
5 as exceeding congressional authority. It is put forward to me
6 as a preservation motion. And I understand what that means and
7 I assume that you've covered this with Mr. Reese, but
8 ultimately what it means is that there was binding authority
9 which I must follow which says that this motion is just wrong
10 and can't be granted.

11 But in the hopes that -- well, it's either in the
12 hopes that the Circuit may somehow carve a new path through the
13 forest or because the appellate people are now in control of
14 the trial side. I am not sure which. The motion has been
15 filed. I don't need any further discussion on it. It is a
16 preservation motion. There is binding 10th Circuit authority
17 to the contrary. Beyond that I would say every Circuit that's
18 heard this issue, the Supreme Court, there is not any authority
19 for this anywhere beyond, as near as I can tell, some
20 individual judges in dissent, one of them even being an *en banc*
21 review dissent.

22 But regardless of whether I take a tally of the judges
23 or courts taking one issue over another, taking one side over
24 another I should say, there is clear 10th Circuit authority to
25 the contrary, and therefore the motion is denied.

1 it's looking at, not that if you can be executed you therefore
2 can have your guns taken away. I think the point of that was
3 the history of how felons are treated in this country and the
4 seriousness, not based particularly on each felony, but felons
5 in general and the fact that felons in general in the history
6 of this country were treated very harshly.

7 *THE COURT:* So what?

8 *MS. COCCARO:* So then being able to regulate firearms
9 in this day and age as opposed to them being harsh as the
10 defense says or not within the constitutional arena is against
11 our history. It is the history of how we treat felons, not
12 that if you can be executed you can, but as we go from back
13 then when that's how felons were treated to now, that it's
14 still a serious offense. It's just an analysis on the history
15 of how felons are treated. I am not saying that it is why we
16 take felons --

17 *THE COURT:* All right. Well, again one of the things
18 that's difficult here is that I am dealing with ghost writers.
19 And all that I mean by that is I don't know who wrote the
20 defense motion. I do know that if I take the three cases I now
21 have in front of me and lay each motion side by side, there is
22 a remarkable similarity in the language. And I don't mean it
23 to suggest that anybody is plagiarizing anything or doing
24 anything inappropriate.

25 And it's the same thing on the government's side. I

1 am looking at this going, all right, so we are each -- again, I
2 exaggerate for effect, but I now have talking heads on each
3 side that are not really the originators of this and may not be
4 expressing it as well as the originators intended. But who
5 knows? I mean, ultimately these are matters that I have to
6 decide in the first instance, the Circuit has to decide in the
7 second instance, and maybe, maybe the Supreme Court decides,
8 but maybe not.

9 All right. I don't want -- this is a serious issue.
10 I don't mean to suggest anything to the contrary. I think it
11 is an issue that to some degree it's predicated on
12 crystal-balling what people think. And there is a cottage
13 industry of what people think the Supreme Court will ultimately
14 do with a particular issue. I am going to deny the motion and
15 I am going to deny the motion for multiple reasons.

16 No. 1, while there is some room for discussion, I do
17 have *McCane* saying to me that felons are prohibited and that
18 it's not unconstitutional. Now, I recognize that *Bruen*
19 post-dates that. But there is something that the government
20 does say, and perhaps there is a better response than those
21 that come to my mind, but ultimately Judge Tymkovich was not
22 basing at least his opinion on some notion of the kind of
23 balancing test that ended up being the subject of disapproval
24 in *Bruen*.

25 And so again -- but I don't stop there. I mean,

1 ultimately if *McCane* is subject to reanalysis, where I come out
2 is this. *Heller*, *Bruen*, repeatedly justices are saying and
3 have said, and justices meaning justices of the Supreme Court,
4 that they are not invalidating or calling into question the
5 legality of restrictions on firearms by felons. I really don't
6 have any reason to say, yeah, they are, or, yeah, they are
7 going to, or, yeah, they might be. Ultimately I take them at
8 their word and their word has been consistent.

9 Even throughout *Bruen* the issue is, and I don't have a
10 particular quote in front of me, but whether or not you can
11 impose these types of discretionary restrictions on law-abiding
12 citizens. And law-abiding is part of the theme of the entire
13 opinion. So I am not sitting here saying that I embrace this
14 notion that felons aren't people within the meaning of the
15 Constitution. I think that is interesting word play, but at
16 the end of the day where I do come out is that neither *Bruen*
17 nor *Heller*, *McDonald*, or any of the other cases that are relied
18 upon, whether they be Supreme Court or even Circuit Court,
19 stands for the proposition that the highest court has been
20 carving restrictions or putting controls on the regulations of
21 922(g).

22 I mean, the reality is, and it's not something that
23 I've engaged Mr. O'Hara on because I don't think there is much
24 value in it, but if, in fact, you're going to sit there and
25 say, well, 922(g) is out, I don't know why the -- what is it,

1 Title 26 firearms, I don't know why they are any more sacred
2 because those actually can't be possessed even by law-abiding
3 persons, and yet there is no suggestion that anyone makes on
4 either side of the aisle that there is something improper about
5 those restrictions.

6 And it may be that that's where a dangerousness
7 discussion occurs with regard to those types of firearms, but
8 again that may be a different standard than that approved by
9 the Supreme Court. That's not today's case. That's not
10 today's issue. I just note it in passing.

11 At the end of the day, my interpretation of the
12 Supreme Court cases is that the Court has dealt with
13 restrictions on law-abiding individuals and has not said that
14 this is the standard, this historical analogy that applies to
15 felons with guns. It is not said that there is a restriction
16 that is inappropriate if you preclude felons from possessing
17 firearms. They have said nothing of the sort.

18 And to the extent that people can come together and
19 say, yeah, but they might, or, I know what Justice Thomas was
20 thinking, there is a word for all of that. It's called
21 speculation and it's not where the law is. It may be where you
22 can get the law to be, but it's not where the law is. Where
23 the law is is what I am going to base my decision on. Where
24 the law is is that felons can be restricted from the possession
25 of firearms in this country until the Supreme Court or the 10th

1 Circuit says otherwise.

2 Now, tertiary level of analysis very quickly is this.
3 To the extent that the *Bruen* standard might be applicable to
4 the issue of whether or not felons can be restricted, what I
5 would say is this. To put it back into the math terms, you
6 know, the only symbol is not the equal sign. There is also the
7 wave and then the equal sign with the wave above it meaning
8 it's approximately or equal to or approximate to. And I think
9 again it confuses things to use this symbol, but I like to
10 engage in the level that I am vollied at so to speak. The
11 approximation I think is more apt than not.

12 I don't read the approximation that the government is
13 saying as being one speaking to dangerousness. And I think we
14 can put certain labels on it and the defense puts the label on
15 it of people who are either traders or anarchists or something
16 along that line. And certainly in the case of Catholics, the
17 notion was, well, they're loyal or their allegiance lies to the
18 pope and not the government authority, and therefore they would
19 follow him whenever he was in conflict with us.

20 The way I look at this whether it be with regard to
21 blacks or Catholics or the other matters that are reported is
22 that essentially if there is not allegiance or adherence to the
23 authority of government if you would, various restrictions have
24 been historically recognized. And the notion of felon is one
25 that is a violation of serious laws. And now we can get down

1 into whether food stamp issues are more serious than some
2 other, but you can -- I don't care what you're talking about,
3 felonies, misdemeanors, sentences, guidelines, you can always
4 find extreme outliers at both ends of the spectrum. At the end
5 of the day, I think there is some historical precedent that
6 suggests that those who stand in opposition to government can
7 be restricted by government in the possession of firearms.

8 Make no mistake, primarily with regard to *McCane* and
9 with regard to this issue, my primary landing spot is the
10 Supreme Court has not said that this standard, this *Bruen*
11 standard which might have some value to a defense's ability to
12 argue against the legality or constitutionality of 922(g), is
13 applicable other than to law-abiding citizens and restrictions
14 placed on them.

15 We are so far removed from discretionary-type
16 approvals of the government, as was the case in *Bruen*, when we
17 are talking about this type of an issue where we're not even
18 approached -- even if we were talking about law abiding, we are
19 not even talking about discretionary approvals and
20 disapprovals. We are so far afield from that that I don't
21 think -- well, that I am not convinced.

22 I get it. I understand. Those charged see hope at
23 the end of the tunnel. But my answer to that is pick any issue
24 in the law. If you can't find a judge somewhere that sides
25 with it, then that is an exceptional issue because judges can

1 disagree. It is not a popularity contest. It is not a numbers
2 game. I grant all of that. But the overwhelming authority has
3 been laws and remains that felon with a gun is not an
4 unconstitutional statute, and there is no requirement that I
5 sit here and parse out this kind of felony versus that kind of
6 felony. So for all of these reasons the motion is denied.

7 MR. O'HARA: Your Honor, Mr. Reese would like to speak
8 to the Court directly.

9 THE COURT: All right, if you're fine with it. You
10 don't have to stand. Just spin the microphone over.

11 THE DEFENDANT: Okay, Your Honor. How are you doing
12 today? As this Court has sat here and we have battled and they
13 stated their statement and we stated our statement, there is
14 nothing in this argument or what you have just said that states
15 that I have not seen or been brought to my attention that says
16 that felons are excluded. And also before that there is
17 multiple things that this argument that doesn't revolve -- my
18 bad -- involve the actual argument of what we were trying to
19 attack to where -- and I feel like we didn't get to say our
20 second part to the response of what she said. And you just
21 made your decision and there was things that we have missed.
22 Is there a way that we can go over those or is that just a dead
23 issue, period?

24 THE COURT: I am not entirely sure what it is that you
25 are saying. What I hear you saying is that you have a response

1 to what the government's view or position was. If there is
2 some response that has not been articulated in the briefing, I
3 don't know what it is.

4 *THE DEFENDANT:* I have responses in her briefing that
5 I have responded to mostly. There is not one case law or
6 actual historical facts that say that we're not allowed to.
7 There is not one. Our nation's historical facts, not England,
8 not Romania, our national historical facts.

9 *THE COURT:* Look, the reason that there is a reference
10 to England is that the common law of England is frequently
11 cited as an underpinning for the constitutional standards that
12 were there. Now, is it always the case? No. But referencing
13 England is not the same as referencing Romania.

14 *THE DEFENDANT:* I am not saying --

15 *THE COURT:* No, I get it.

16 *THE DEFENDANT:* I am just saying that under our
17 nation's historical facts where we have adopted certain things
18 from nations that have been nations longer than us, and I
19 understand that, but under our nation's historical facts, we
20 did not dispute or label or classify anything. There was no
21 classification. There was nowhere in the amendments that says
22 that this person or these people. The Fourteenth Amendment
23 says that all equal rights belong to everybody. So how is it
24 that you can pick and choose? A misdemeanor, a person, it's a
25 law infraction. Am I right or am I wrong?

1 THE COURT: A misdemeanor is not at all relevant to
2 anything because we are not arguing about misdemeanors.

3 THE DEFENDANT: I know, but I am trying to give you a
4 point. I am not trying to make it -- I can make it relevant if
5 I -- so a misdemeanor depending on what is, whether it's
6 anything from violent to nonviolent, it's still a law
7 infraction. There is a penalty for it.

8 THE COURT: True.

9 THE DEFENDANT: Okay. So how is it that this violent
10 misdemeanor, maybe he did six months in jail, he can carry a
11 pistol still, but a felony may not. I don't understand the
12 fact that you're telling me that felons cannot carry weapons,
13 but the people that are committing mass shootings at Wal-Marts
14 and schools are not even felons, have nothing to do with
15 felons. You can't pull up one person that was a felon before
16 the mass shooting. They was "civilized people." So these
17 people that are doing these things are more dangerous than I
18 am. I haven't shot at the police station. I haven't shot at
19 the Wal-Mart.

20 THE COURT: I haven't ruled on the basis of
21 dangerousness. I have not said you are dangerous. I have not
22 said you are not dangerous. I have basically simply said that
23 based on -- to the extent you are sitting here saying there is
24 nothing in the precedent that says that felons can't have
25 firearms, there is nothing in the Supreme Court's opinions that

1 are directed to the issue of suggesting that there is some
2 illegality in prohibiting felons from possessing firearms.

3 *THE DEFENDANT:* But that's only because as of now the
4 people have not had the intelligence to argue the situation.
5 Nobody was intelligent enough.

6 *THE COURT:* This argument has been made for years.
7 The notion that, you know, there is some level of new
8 intelligence or extraordinary intelligence or you guys, whoever
9 that may be, have now come together and had the intelligence to
10 raise an issue, that's ridiculous. It's just ridiculous.
11 Nobody is smart enough in hundreds of years? Nobody is smart
12 enough?

13 *THE DEFENDANT:* I am saying that maybe -- I mean, in
14 my situation, I am not going to say everybody, but in my
15 situation, my first 922(g), if I knew the things I know now, I
16 wouldn't even have had --

17 *THE COURT:* I don't frankly care whether you would
18 have pled or not pled or whatever to your first 922(g). That's
19 not my issue.

20 *THE DEFENDANT:* That wasn't my point, Your Honor.

21 *THE COURT:* Then what was your point?

22 *THE DEFENDANT:* I am saying that there is things that
23 can be learned.

24 *THE COURT:* Fair enough, fair enough. There are
25 things that can be learned. But it is not the case that just

1 because you can hypothesize something, just because you can
2 make an argument, that the argument is valid. There is nothing
3 in the Supreme Court's opinions that says or suggests that
4 there is a limitation that they are looking to impose on the
5 restriction of felons possessing firearms, nothing. The fact
6 that you can come up with an argument does not mean that it is
7 legal, does not mean that I should accept it, does not mean
8 that the Supreme Court is going to accept it. It just does
9 not.

10 *THE DEFENDANT:* I am not saying that it's
11 automatically just flat out wrong. I am not saying that
12 whatever I say goes. That's not what I am saying at all. I am
13 just saying that we didn't get to actually articulate our
14 complete argument. You just heard one part and heard that part
15 and we didn't get to even rebuttal what they said. Like we
16 didn't even get a chance.

17 *THE COURT:* That's what you're doing now.

18 *THE DEFENDANT:* But I'm not the best speaker. I don't
19 have the greatest words. My lawyer, that's what he is for.

20 *MR. O'HARA:* Your Honor, if I could summarize with two
21 points.

22 *THE COURT:* Go ahead.

23 *MR. O'HARA:* I think I would say in rebuttal, one is
24 there is no specific historical precedent relating to felons.

25 *THE COURT:* I agree with that.

1 MR. O'HARA: And the government is trying to therefore
2 extrapolate using unrelated or irrelevant statutes in order to
3 justify the prohibition of felons possessing firearms.

4 THE COURT: I agree that it is not an equivalence. Is
5 it an analogous circumstance? It is to the extent that you
6 interpret the prior history as opposition to the authority and
7 laws of government. That's my answer.

8 MR. O'HARA: And my second point, Your Honor, is the
9 Court made a statement about law-abiding citizens.

10 THE COURT: Correct.

11 MR. O'HARA: And felons can be interpreted as being
12 nonlaw-abiding citizens, and I think that demarcation is not
13 justified because something Mr. Reese mentioned is that
14 law-abiding citizens suddenly means only individuals who have
15 committed misdemeanors, that they would be considered
16 law-abiding citizens, yet someone like Mr. Range would not be
17 considered a law-abiding citizen. It just seems like an
18 arbitrary line to draw to associate felons as nonlaw-abiding
19 citizens and misdemeanants as law-abiding citizens.

20 THE COURT: Well, look. It is clear. If you want to
21 go through a case and read a particular word and say this word
22 by flipping over to a dictionary means X, yeah, you can make
23 that argument. You know and I know and every justice on the
24 Supreme Court knew what was being said in the context of
25 "law-abiding citizens," and then later on individual justices

1 saying we're not -- we're not challenging or addressing the
2 issue of 922(g) .

3 What they meant in context was that their analysis did
4 not extend to the prohibition of felons with firearms. Now,
5 whether you want to call it felons, 922(g) offenders,
6 law-abiding citizens or anything else, at the end of the day
7 what they said and what I conclude is that the Supreme Court
8 has not invalidated or suggested anything that constitutes
9 potential invalidation of federal statutes that restrict the
10 ability of felons to possess firearms.

11 Last thing. Go ahead and then we are done. We are
12 not going to sit here and go back and forth all day.

13 *THE DEFENDANT:* The Fourteenth Amendment states that
14 it's not going to enforce laws or any type of laws.

15 *THE COURT:* The Fourteenth Amendment makes certain
16 federal principles applicable to the State. It has nothing to
17 do with your Second Amendment claim where the Federal
18 Government is controlling your action. Perhaps if you were in
19 state court, we could be discussing other matters, but we are
20 not in state court. We are talking about straightforward
21 federal rights, federal ability to control firearms. That's
22 it. It's not a Fourteenth Amendment issue. Never has been,
23 not here.

24 *THE DEFENDANT:* Okay. That doesn't involve -- is it
25 wrong that I am trying to get an understanding? Am I wrong for

1 trying to understand?

2 *THE COURT:* I am sorry?

3 *THE DEFENDANT:* Am I wrong to try to understand?

4 *THE COURT:* You are not wrong in trying to understand.
5 You are wrong in being resistant to accepting what I have said.
6 I have ruled. End of discussion. We are done.

7 *MR. O'HARA:* May I have one moment to speak to
8 Mr. Reese?

9 *THE COURT:* Yeah.

10 *MR. O'HARA:* Your Honor, after speaking with
11 Mr. Reese, it's going to be our intention to file a notice of
12 disposition this afternoon that contains a conditional plea.

13 *THE COURT:* All right. We will be in recess.

14 Hold on. Let's go back on the record. I just want to
15 make sure that we are all on the same page, and all that I mean
16 by that is Mr. Reese -- you can sit down for a second --
17 Mr. Reese, I have no quarrel with anything that you have tried
18 to do here. I just want to make sure that we are in a perfect
19 understanding. Your lawyer is saying to me that you are
20 reserving the right to raise with higher courts the possibility
21 that I'm wrong, and that's what a conditional plea means. And
22 so I have no issue with that. I will not stand in the way of
23 that. I am not going to try to block that. I am not going to
24 do anything in opposition to that.

25 If the Circuit ultimately agrees with you, then they

1 do. And if the Supreme Court ultimately agrees with you, then
2 they do. But right now my position is not the same as that
3 advocated by your counsel, okay? I just want to make sure
4 there is not a lack of understanding here.

5 *THE DEFENDANT:* Not so far.

6 *THE COURT:* Okay. Recess.

7 (Recess at 11:13 a.m.)

8 REPORTER'S CERTIFICATE

9 I certify that the foregoing is a correct transcript from
10 the record of proceedings in the above-entitled matter. Dated
11 at Denver, Colorado, this 23rd day of April, 2024.

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13 S/Janet M. Coppock

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action Nos. 19-cr-0144-RM and 23-cr-0111-RM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANDREW REESE,

Defendant.

REPORTER'S TRANSCRIPT
(Supervised Release Violation Hearing and Sentencing)

Proceedings before the HONORABLE RAYMOND MOORE, Senior
Judge, United States District Court for the District of
Colorado, commencing at 9:02 a.m., on the 23d day of
February, 2024, in Courtroom A601, United States Courthouse,
Denver, Colorado.

APPEARANCES

CELESTE B. RANGEL, Assistant U.S. Attorney, 1801
California Street, Suite 1600, Denver, Colorado 80202,
appearing for the plaintiff.

TIMOTHY P. O'HARA, Office of the Federal Public
Defender, 633 Seventeenth Street, Suite 1000, Denver,
Colorado 80202, appearing for the defendant.

MARY J. GEORGE, FCRR, CRR, RMR
901 19th Street, Denver, Colorado 80294
Proceedings Reported by Mechanical Stenography
Transcription Produced via Computer

1 THE COURT: Are you able to think clearly and make
2 intelligent decisions here today?

3 THE DEFENDANT: Yes.

4 THE COURT: Now, Mr. O'Hara, do you have the
5 petition up there --

6 MR. O'HARA: I do.

7 THE COURT: You do. Okay. We've been discussing
8 this petition and it is there before you. What I want to
9 know is whether or not you've read the petition prior to
10 today.

11 THE DEFENDANT: Yes.

12 THE COURT: And had the opportunity to review it
13 and discuss it with Mr. O'Hara?

14 THE DEFENDANT: Yes.

15 THE COURT: Now, what we're talking about here is
16 the dismissal of, as I said, allegations 2, 3, and 4, so
17 that we need not focus on them at all. I will also tell you
18 that the way supervised release violations work is that
19 regardless of the number of alleged violations, what one
20 does is that you look to the more serious of the violations,
21 and that is legal talk for the grade of violation assigned
22 to it. And the grade of violation determines the guideline
23 recommendation. There are only three grades, Grade A,
24 Grade B, and Grade C. None of the violations alleged are
25 Grade As. The possession of a firearm is a Grade B

1 violation; the failure to participate in substance abuse
2 testing is a Grade C violation. And those are the two
3 violations that you have, through counsel, advised that you
4 wish to admit. Do you understand?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: Based on those violations, if I found
7 them to be true, I could impose a sentence of imprisonment
8 for up to 24 months. Do you understand?

9 THE DEFENDANT: Yes, I do.

10 THE COURT: If I impose a sentence of imprisonment,
11 I could also impose a term of supervised release. I do not
12 mean to short-circuit anything, but I'm going to tell you
13 right now that I don't intend to impose a term of supervised
14 release on the supervised release violation case. But at
15 least in theory, I could do so. Understood?

16 THE DEFENDANT: I very well understand.

17 THE COURT: All right. Any sentence I impose can
18 be made to run together with any other sentence that you may
19 be serving, or consecutive -- or consecutive to it. Meaning
20 that it could be made to run together with or to follow some
21 other case that exists outside of this courtroom. It also
22 means that it could be made to run together with, or to
23 follow, the sentence that I would give you in the new
24 criminal case before me. Do you understand?

25 THE DEFENDANT: Yes, I do.

1 Only with respect to that.

2 THE DEFENDANT: You said I can appeal, though,
3 still if the --

4 THE COURT: I'm asking you, which choice do you
5 make? Do you want to proceed to a hearing or do you want to
6 admit the violations --

7 THE DEFENDANT: Okay, I'll admit. I apologize. I
8 admit.

9 THE COURT: No reason to apologize. All right.
10 And do you admit that in fact you did violate these two
11 terms -- conditions of supervised release that we've been
12 talking about?

13 THE DEFENDANT: To -- to the respects of the fifth
14 one --

15 THE COURT: Just one and five.

16 THE DEFENDANT: Yeah, one and five, in the respect
17 of that, I would just like to say that I was told that I was
18 supposed to go get an interview for -- to see if I was to
19 take classes or whatever -- oh, yeah. I'm guilty as
20 charged.

21 THE COURT: Okay. Based on the petition, my
22 observations of the defendant, the statements of counsel,
23 and the record developed here today, it is the finding of
24 the Court that the defendant is fully competent and capable
25 of entering an informed admission. That he has the benefit

1 of competent counsel. He is aware of the nature of the
2 violations alleged and the consequences of the admission.
3 The admissions as tendered are knowing and voluntary ones
4 which are supported by an independent basis in fact. The
5 most serious violation is a Grade B violation which carries
6 a advisory range of 21 to 24 months.

7 I accept the defendant's admission and order that
8 they be entered. The defendant is now adjudged as having
9 violated his supervised release. I also at this time
10 dismiss from the petition -- and I keep saying the
11 petition -- I want to make sure that it's not a superseding
12 petition.

13 MS. RANGEL: I -- my memory is it's just a petition
14 because it was filed before the guilty plea in this case.

15 THE COURT: All right. 2, 3 and 4 of the petition
16 are dismissed. All right. You can return to your seat.

17 And let's talk about, then, the issue -- we're
18 switching now to the sentencing phase. Again, we're
19 switching to both cases. And let me begin by asking
20 Mr. O'Hara: Have you received a copy of the presentence
21 report and the addenda and had sufficient time to review
22 them and discuss them with your client?

23 MR. O'HARA: I have, Your Honor.

24 THE COURT: Same true for the Government?

25 MS. RANGEL: I did have time to review it.

1 THE DEFENDANT: If you're not, then -- I mean this
2 is -- you just was talking to him. I don't -- I don't have
3 nothing, Your Honor. I apologize for my behavior. I just
4 wanted to be able is to live another day. I'm sorry.

5 THE COURT: All right. In fashioning a sentence
6 here -- well, in fashioning a sentence -- in fashioning
7 sentences here today, I considered in each case the matters
8 that need to be considered, and I've considered the cases
9 separately.

10 So what I mean by that is: With regard to the new
11 criminal case, I have considered the presentence report, all
12 matters relating to that report that have been filed by the
13 parties. I've considered the statements and the arguments
14 of counsel. I've considered the statement of the defendant.
15 I'm mindful of the fact that I'm required by law to impose a
16 sentence which is sufficient but not greater than necessary
17 to achieve the purposes of sentencing as described in 18
18 U.S.C. 3553, and I've considered all of those factors
19 regardless of whether or not we've specifically spoken to
20 each of them here today.

21 With regard to the supervised release case, I've
22 considered the supervised release violation report, all
23 matters relating to that that have been filed or addressed
24 or spoken of by each of the parties. I've considered the
25 statements of -- and arguments of counsel for the parties

1 here today. I've also considered the statement of the
2 defendant. I'm mindful of the fact that I'm required by law
3 to impose a sentence which is sufficient but not greater
4 than necessary in that case to achieve those purposes of
5 sentencing which are applicable in the supervised release
6 contexts. The two not being the same. And I have, and
7 will, sentence each of them separately.

8 Mr. Reese, at the end of the day, here's what it
9 comes down to: I am going to tell you what it is I'm going
10 to give you and I'll tell you why. Let me start with the
11 new criminal case. I'm giving you the top of the
12 guidelines. I'm giving you the 63 months.

13 To be honest, if I did not believe that you had
14 some mental health issues and some really traumatic things
15 in your background, I wouldn't -- 63 would be considered low
16 to me. I will stop at the top of the guideline range
17 because I think it's sufficient taking into account all of
18 your circumstances. That being said, let's just be clear:
19 20-some odd criminal history points, Criminal History
20 Category VI, multiple drug felonies. This is the fifth
21 felony conviction that relates to the possession of
22 firearms. This is the fourth possession of a weapon by a
23 previous offender. This is within five months of being
24 released on supervised release. This is in connection with
25 another felony offense.

1 Mr. O'Hara asks for mercy. 63 is mercy because I
2 could easily go higher, but I won't. Three years supervised
3 release with all of the special -- with all of the
4 conditions recommended by the probation office. I'm sorry,
5 if I said 63 years, that is an absolute misstatement. I
6 meant 63 months.

7 MR. O'HARA: I thought you said "months."

8 THE COURT: Okay. But in any event, three years of
9 supervised release. \$100 assessment; no fine. Obviously no
10 restitution. I don't know what else there is to say.

11 In terms of the supervised release case, which I
12 will impose second, I'll go along with the recommendation of
13 22 months. Personally, I would not blink at saying 24.
14 Every month matters; I get that. And I consider violation
15 of the Court's trust to be most egregious when it involves
16 felony conduct, and that is the Grade B violation. But
17 beyond that, I'm not crossing the guardrail. It's within a
18 matter of months after he's placed on supervised release and
19 it's the same conduct for which he was put on supervised
20 release originally.

21 There could be no more thumbing your nose at the
22 Court than the "just do the thing again that got you there
23 in the first place." But I'll go along with the 22 months.
24 And it is going to be consecutive. There will be no
25 supervised release to follow. Ms. Rangel.

UNITED STATES DISTRICT COURT

District of Colorado

UNITED STATES OF AMERICA

v.

ANDREW REESE

JUDGMENT IN A CRIMINAL CASE

Case Number: 1:23-cr-00111-RM-1

USM Number: 45242-013

Timothy Patrick O'Hara

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of the Indictment.☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 922(g)(1)	Possession of a Firearm/Ammunition by a Prohibited Person	02/17/23	1

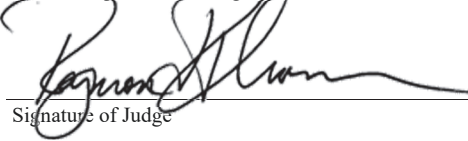
The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

February 23, 2024

Date of Imposition of Judgment



Signature of Judge

Raymond P. Moore, Senior United States District Judge

Name and Title of Judge

February 26, 2024

Date

DEFENDANT: ANDREW REESE
CASE NUMBER: 1:23-cr-00111-RM-1

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: **sixty-three (63) months, consecutive to the sentence imposed in United States District Court, District of Colorado, Docket Number 1:19-cr-00144-RM-1.**

- ☐ The court makes the following recommendations to the Bureau of Prisons:
- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:
- ☐ at _____ ☐ a.m. ☐ p.m. on _____ .
- ☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ before 2 p.m. on _____ .
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____ , with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: ANDREW REESE
CASE NUMBER: 1:23-cr-00111-RM-1

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: **three (3) years.**

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and a maximum of 20 tests per year of supervision thereafter.
 - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: ANDREW REESE
CASE NUMBER: 1:23-cr-00111-RM-1

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may, after obtaining Court approval, notify the person about the risk or require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: ANDREW REESE
CASE NUMBER: 1:23-cr-00111-RM-1

SPECIAL CONDITIONS OF SUPERVISION

1. You must participate in a program of testing and/or treatment for substance abuse approved by the probation officer and follow the rules and regulations of such program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program as to modality, duration, and intensity. You must abstain from the use of alcohol or other intoxicants during the course of treatment. You must not attempt to obstruct, tamper with or circumvent the testing methods. You must pay for the cost of testing and/or treatment based on your ability to pay.
2. You must participate in a program of mental health treatment approved by the probation officer and follow the rules and regulations of such program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program as to modality, duration, and intensity. You must pay for the cost of treatment based on your ability to pay.
3. You must submit your person, property, house, residence, papers, or office, to a search conducted by a United States probation officer. Failure to submit to search may be grounds for revocation of release. You must warn any other occupants that the premises may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that you have violated a condition of your supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.
4. You must not knowingly associate with or have contact with any individuals you know to be or have reason to believe are gang members and must not participate in gang activity, to include displaying gang paraphernalia.

DEFENDANT: ANDREW REESE
CASE NUMBER: 1:23-cr-00111-RM-1

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on the following page.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$ 100.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	----------------------	----------------------------	-------------------------------

TOTALS	\$ <u>0.00</u>	\$ <u>0.00</u>
---------------	----------------	----------------

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the following page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Publ. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: ANDREW REESE
CASE NUMBER: 1:23-cr-00111-RM-1

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☐ Lump sum payment of \$ _____ due immediately, balance due
- ☐ not later than _____, or
- ☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☒ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Case Number

Defendant and Co-Defendant Names
(including defendant number)

Total Amount

Joint and Several Amount

Corresponding Payee, if
appropriate

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVT A assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT

District of Colorado

UNITED STATES OF AMERICA

v.

ANDREW RAPHAEL REESE

Judgment in a Criminal Case(For **Revocation** of Supervised Release)

Case Number: 1:19-cr-00144-RM-01

USM Number: 45242-013

Timothy O'Hara

Defendant's Attorney

THE DEFENDANT:☒ admitted guilt to violation(s) 1 and 5 of the Petition for Warrant on Person Under Supervision☐ was found guilty of violation(s) _____
after denial of guilt.

The defendant is adjudicated guilty of the following violation(s):

<u>Violation Number</u>	<u>Nature of Violation</u>	<u>Violation Ended</u>
1	Possession of a Firearm or a Destructive Device	02/17/2023
5	Failure to Participate in Substance Abuse Testing as Directed by the Probation Officer	02/09/2023

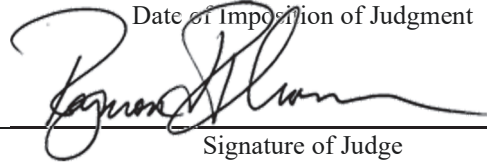
The defendant is sentenced as provided in pages 2 through 2 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☒ The government withdraws violations 2-4.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Last Four Digits of Defendant's Soc. Sec.: 9064Defendant's Year of Birth: 1993City and State of Defendant's Residence:
Littleton, COFebruary 23, 2024

Date of Imposition of Judgment



Signature of Judge

Raymond P. Moore, Senior United States District Judge

Name and Title of Judge

February 26, 2024

Date

DEFENDANT: ANDREW RAPHAEL REESE
CASE NUMBER: 1:19-cr-00144-RM-01

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: **22 months, to run consecutively to sentenced imposed in United States District Court case number 1:23-cr-00111-RM-01. No term of supervision to follow imprisonment.**

☒ The court makes the following recommendations to the Bureau of Prisons:
The Court recommends the Bureau of Prisons credit the defendant with time spent in official detention.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____
☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____ .
☐ as notified by the United States Marshal.
☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____ , with a certified copy of this judgment.

UNITED STATES MARSHAL

By

DEPUTY UNITED STATES MARSHAL

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

May 13, 2025

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANDREW RAPHAEL REESE,

Defendant - Appellant.

Nos. 24-1069 & 24-1070
(D.C. Nos. 1:19-CR-00144-RM-1 &
1:23-CR-00111-RM-1)
(D. Colo.)

ORDER AND JUDGMENT*

Before **TYMKOVICH**, **BALDOCK**, and **FEDERICO**, Circuit Judges.

Defendant, Andrew Reese, pleaded guilty to possession of a firearm and ammunition as a felon in violation of 18 U.S.C. § 922(g)(1). In relevant part, § 922(g)(1) makes it unlawful for a convicted felon to “possess in or affecting commerce, any firearm.” Defendant also admitted to violating the terms of his supervised release by possessing a firearm and by failing to participate in substance abuse testing. In these consolidated appeals, Defendant challenges his § 922(g)(1)

* After examining the briefs and appellate record, this panel has determined unanimously to honor the parties’ request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

conviction (No. 24-1070) and his revocation sentence (No. 24-1069) by arguing § 922(g)(1) is unconstitutional under the Second Amendment and the Commerce Clause. He appeals for preservation purposes only, conceding our precedents foreclose his arguments. We exercise jurisdiction under 28 U.S.C. § 1291 and review Defendant's appeal de novo. *See United States v. Dorris*, 236 F.3d 582, 584 (10th Cir. 2000) (explaining we review challenges to the constitutionality of a statute de novo).

Defendant first argues we must vacate his § 922(g) conviction because it violates the Second Amendment, citing *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022) and *United States v. Rahimi*, 602 U.S. 680 (2024). Defendant raises both a facial and as-applied challenge. We agree with Defendant that our precedents foreclose his argument. In *United States v. McCane*, we held § 922(g)(1) does not violate the Second Amendment. 573 F.3d 1037, 1047 (10th Cir. 2009). In addition, *McCane* “upheld the constitutionality of § 922(g)(1) without drawing constitutional distinctions based on the type of felony involved.” *Vincent v. Bondi*, 127 F.4th 1263, 1266 (10th Cir. 2025). *McCane* remains binding after *Bruen* and *Rahimi*, so Defendant's Second Amendment challenge fails. *See id.*

Defendant also argues § 922(g) violates the Commerce Clause, citing *United States v. Lopez*, 514 U.S. 549 (1995). Our precedents yet again foreclose Defendant's argument. We have affirmed the constitutionality of § 922(g) under the Commerce Clause on numerous occasions. *See, e.g., United States v. Bolton*, 68 F.3d 396, 400 (10th Cir. 1995) (“Section 922(g)'s requirement that the firearm have been, at some time, in interstate commerce is sufficient to establish its constitutionality under the Commerce

Clause”); *Dorris*, 236 F.3d at 584–86 (rejecting a challenge to § 922(g)(1) based not only on *Lopez* but also *United States v. Morrison*, 529 U.S. 598 (2000) and *Jones v. United States*, 529 U.S. 848 (2000)); *United States v. Urbano*, 563 F.3d 1150, 1154 (10th Cir. 2009) (reiterating, “if a firearm has traveled across state lines, the minimal nexus with interstate commerce is met and the statute can be constitutionally applied”).

Bound by precedent, we affirm Defendant’s § 922(g) conviction and his revocation sentence.

Entered for the Court

Bobby R. Baldock
Circuit Judge

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Byron White United States Courthouse

1823 Stout Street

Denver, Colorado 80257

(303) 844-3157

Clerk@ca10.uscourts.gov

Christopher M. Wolpert
Clerk of Court

Jane K. Castro
Chief Deputy Clerk

May 13, 2025

Mr. Michael Conrad Johnson
Office of the United States Attorney
District of Colorado
1801 California Street, Suite 1600
Denver, CO 80202

Mr. Josh Lee
Office of the Federal Public Defender
Districts of Colorado and Wyoming
633 Seventeenth Street, Suite 1000
Denver, CO 80202

RE: 24-1069, 24-1070, United States v. Reese
Dist/Ag docket: 1:19-CR-00144-RM-1

Dear Counsel:

Enclosed is a copy of the order and judgment issued today in this matter. The court has entered judgment on the docket pursuant to Fed. R. App. P. Rule 36.

Pursuant to Fed. R. App. P. Rule 40(d)(1), any petition for rehearing must be filed within 14 days after entry of judgment. Please note, however, that if the appeal is a civil case in which the United States or its officer or agency is a party, any petition for rehearing must be filed within 45 days after entry of judgment. Parties should consult both the Federal Rules and local rules of this court with regard to applicable standards and requirements. In particular, petitions for rehearing may not exceed 3900 words or 15 pages in length, and no answer is permitted unless the court enters an order requiring a response. *See* Fed. R. App. P. Rule 40 and 10th Cir. R. 40 for further information governing petitions for rehearing.

Please contact this office if you have questions.

Sincerely,

A handwritten signature in black ink, consisting of a long horizontal stroke followed by a series of loops and a final horizontal stroke.

Christopher M. Wolpert
Clerk of Court

CMW/klp