

No. 25-5415

IN THE SUPREME COURT OF THE UNITED STATES

ROBERTO ANTWAN WILLIAMS, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

D. JOHN SAUER
Solicitor General
Counsel of Record
Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

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Petitioner contends (Pet. 12-16) that 18 U.S.C. 922(g)(1) violates the Second Amendment as applied to him. For the reasons set out in the government's brief opposing certiorari in Vincent v. Bondi, No. 24-1155 (Aug. 11, 2025), the contention that Section 922(g)(1) violates the Second Amendment as applied to petitioner does not warrant this Court's review. Although there is some disagreement among the courts of appeals regarding whether Section 922(g)(1) is susceptible to individualized as-applied challenges, that disagreement is shallow. See Br. in Opp. at 11-14, Vincent, supra (No. 24-1155). This Court has previously denied plenary review when faced with similarly narrow disagreements among the

circuits about the availability of as-applied challenges to Section 922(g)(1). See id. at 13-14. And any disagreement among the circuits may evaporate given the Department of Justice's recent reestablishment of the administrative process under 18 U.S.C. 925(c) for granting relief from federal firearms disabilities. See Br. in Opp. at 8-11, Vincent, supra (No. 24-1155).

Moreover, Section 922(g)(1) does not raise any constitutional concerns as applied to petitioner. The offense conduct in this case involves petitioner assaulting someone with a gun during an attempted robbery, possessing that gun alongside illegal drugs, and disposing of a separate firearm that was used in the accidental killing of a five-year-old child. Presentence Investigation Report (PSR) ¶¶ 6-9. Petitioner also possessed the firearms in this case after having sustained felony convictions for robbery, battery, and five firearm offenses. PSR ¶¶ 35-41. Given his criminal history, petitioner cannot show that he would prevail on an as-applied challenge in any circuit. See, e.g., United States v. White, No. 23-3013, 2025 WL 384112, at *2 (3d Cir. Feb. 4, 2025) (rejecting an as-applied challenge brought by a felon with previous conviction for, inter alia, carrying a firearm without a license), cert. denied, 145 S. Ct. 2805 (2025); United States v. Morgan, 147 F.4th 522, 528 (5th Cir. 2025) (rejecting as-applied challenge by a felon with prior state felony conviction for illegal use of weapons); United States v. Williams, 113 F.4th 637, 660 (6th Cir.

2024) (recognizing the constitutionality of applying Section 922(g)(1) to persons with previous convictions for "assaults").

Petitioner contends (Pet. 5, 13-16) that his previous felony firearm offenses, which were the prior felony convictions introduced at trial, Gov't C.A. Br. 27, cannot form the basis for a Section 922(g)(1) offense because the statutes under which they were obtained have been declared unconstitutional by the Illinois Supreme Court. But the court of appeals correctly determined that those felony convictions prevent petitioner from lawfully possessing firearms under federal law until they are vacated or expunged. Pet. App. A-10 to A-13 (citing Lewis v. United States, 445 U.S. 55, 56, 56-67 (1980)); see In re N.G., 115 N.E.3d 102, 123 (Ill. 2018) (acknowledging that nullification of firearm convictions based on Illinois Supreme Court decision "is not self-executing" and that "[j]udicial action is necessary"). Petitioner does not identify any conflict on that question. Indeed, the court of appeals observed that the Seventh Circuit has also rejected the same claim petitioner presses. Pet. App. A-13 (citing United States v. Thompson, 901 F.3d 785 (7th Cir. 2018), cert. denied, 587 U.S. 972 (2019)).

The petition for a writ of certiorari should be denied.*

Respectfully submitted.

D. JOHN SAUER
Solicitor General

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* A copy of the government's brief in opposition in Vincent is being served on petitioner. The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.