No. _____

IN THE
Supreme Court of the United States

PERRY JAQUAN JACKSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Is the lifetime ban on possession of firearms by all felons, codified at 18 U.S.C. § 922(g)(1), plainly unconstitutional on its face under *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1 (2022)?

PARTIES TO THE PROCEEDINGS

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

RELATED PROCEEDINGS

United States v. Jackson, No. 2:22-cr-521-DCN, United States District Court for the District of South Carolina. Judgment entered January 13, 2025.

United States v. Jackson, No. 25-4040, United States Court of Appeals for the Fourth Circuit. Judgment entered June 17, 2025.

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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully petitions this Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit.

OPINION BELOW

The order of the United States Court of Appeals for the Fourth Circuit granting the government's motion for summary affirmance can be found at *United States v. Jackson*, No. 25-4040 (4th Cir. June 17, 2025), ECF No. 20, and is set forth at App. 1a.

JURISDICTION

The judgment of the court of appeals was entered on June 17, 2025. Mr. Jackson did not seek rehearing.

Jurisdiction of this Court is pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL and STATUTORY PROVISIONS INVOLVED

The Second Amendment to the U.S. Constitution 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.

Title 18 United States Code Section 922(g)(1) states in relevant part:

> (g) It shall be unlawful for any person—
>
> (1) 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.

STATEMENT OF THE CASE

On September 19, 2024, Perry JaQuan Jackson pleaded guilty to one count of possession of a firearm by a convicted felon in violation of 18 U.S.C. § 922(g)(1). As part of his guilty plea, Mr. Jackson admitted that on March 3, 2022, he possessed a handgun and ammunition, and that at that time, he knew he had previously been convicted of a qualifying felony offense.

The district court sentenced Mr. Jackson to 84 months' imprisonment and three years of supervised release. A written judgment was entered on January 13, 2025, and Mr. Jackson filed a timely notice of appeal on January 24, 2025.

On appeal, Mr. Jackson challenged the facial constitutionality of 18 U.S.C. § 922(g)(1) after *Bruen*. The government responded with a motion for summary affirmance, relying on the Fourth Circuit's decision in *United States v. Canada*, 123 F.4th 159 (4th Cir. 2024). Mr. Jackson responded in opposition. On June 17, 2025, the Fourth Circuit granted the government's motion and dismissed Mr. Jackson's appeal based on its precedential *Canada* decision.

REASONS FOR GRANTING THE PETITION

This Court should grant a writ of certiorari in Mr. Jackson's case, or, alternatively, grant certiorari in another case raising the same issues and hold Mr. Jackson's petition pending a resolution of the important question regarding the facial constitutionality of § 922(g)(1).

In *Bruen*, this Court established a new framework for determining whether a firearm regulation is constitutional under the Second Amendment, eliminating the two-step history and means-end scrutiny test that the Fourth and other Circuits had

previously used to analyze Second Amendment challenges. Specifically, *Bruen* abolished the second step, as "a constitutional guarantee subject to future judges' assessments of its usefulness is no constitutional guarantee at all." *Bruen*, 597 U.S. at 23 (quotations omitted).

Under *Bruen*, the government must prove that § 922(g)(1) is consistent with this Nation's historical tradition of firearm regulation. As one Justice has noted, there is no relevantly similar historical tradition of a lifelong prohibition on the possession of firearms by felons. *Kanter v. Barr*, 919 F.3d 437, 458 (7th Cir. 2019) (Barrett, J., dissenting), *abrogated by Bruen*, 597 U.S. 1. Thus, § 922(g)(1) is unconstitutional on its face. This result is dictated by the application of *Bruen*. The Fourth Circuit was wrong to hold that *Bruen* does not compel this straightforward result. Therefore, Mr. Jackson's § 922(g)(1) conviction should be reversed.

I. Simple application of *Bruen*'s historical-tradition test makes clear that § 922(g)(1)'s lifetime ban on possession of firearms for all felons does not withstand constitutional scrutiny.

A. *Bruen* represented a fundamental shift in Second Amendment analysis.

The Second Amendment to the Constitution mandates that 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." U.S. Const. amend. II. The Second Amendment codifies an individual right to possess and carry weapons, as the inherent right of self-defense is central to its protections. *Dist. of Columbia v. Heller*, 554 U.S. 570, 628 (2008); *see also McDonald v. City of Chicago*, 561 U.S. 742, 767

(2010) ("individual self-defense is the central component of the Second Amendment right").

Following *Heller*, the Fourth Circuit and others used a two-step test to analyze Second Amendment challenges. For example, the Fourth Circuit first looked to "whether the challenged law impose[d] a burden on conduct falling within . . . the Second Amendment's guarantee," and, if it did, then applied means-end scrutiny. *See, e.g.*, *United States v. Chester*, 628 F.3d 673, 680 (4th Cir. 2010) (citation omitted).

In *Bruen*, this Court expressly abrogated this two-step inquiry and announced a new framework for analyzing Second Amendment challenges. While the Court reasoned that "[s]tep one of the predominant framework is broadly consistent with *Heller*," "*Heller* and *McDonald* do not support applying means-end scrutiny in the Second Amendment context." *Bruen*, 597 U.S. at 19. "[W]hen the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct." *Id.* at 17. Upon such a finding, the government must justify its regulation by "demonstrating that it is consistent with the Nation's historical tradition of firearm regulation." *Id.* at 24. Only if the government makes such a showing may a court "conclude that the individual's conduct falls outside of the Second Amendment's 'unqualified command.'" *Id.* (citation omitted). In other words, for a firearm regulation to be constitutional, "the government must affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms." *Id.* at 19.

B. The government cannot show a historical tradition of categorically disarming felons.

Straightforward application of *Bruen*'s test establishes that § 922(g)(1) is not constitutional on its face. The Fourth Circuit was wrong to hold otherwise.

1. The text of the Second Amendment covers Mr. Jackson's conduct, as he is among "the people" the Amendment protects.

The plain text of the Second Amendment protects the right to possess and carry weapons for self-defense. *See Heller*, 554 U.S. at 583-92. *Bruen* reiterated that this right extends outside of the home. *Bruen*, 597 U.S. at 8. Because § 922(g)(1) is a permanent and complete ban on any firearm possession by felons in any context, the statute regulates conduct that is presumptively protected under the plain text of the Second Amendment. As a result, § 922(g)(1) is presumptively unconstitutional under *Bruen*. *Id.* at 24.

The plain text of the Second Amendment and this Court's precedent establish that a person's status as a "felon" does not exclude that person from Second Amendment protections. In *Heller*, this Court rejected the theory that "the people" protected by the Second Amendment was limited to a specific subset of individuals—*i.e.*, those in a militia. 554 U.S. at 579-81. When the Constitution refers to "'the people,' the term unambiguously refers to all members of the political community," and there is a "strong presumption that the Second Amendment right is exercised individually and belongs to all Americans." *Id.* at 580-81 (emphasis added). None of the amendments which reference "the people" discussed in *Heller* make exceptions therefrom, including for a subgroup of "felons." If a person with a felony conviction is

one of "the people" protected by the First and Fourth Amendments, *Heller* teaches that he must also be one of "the people" protected by the Second Amendment. *See Heller*, 554 U.S. at 580 (quoting *United States v. Verdugo-Urquidez*, 494 U.S. 259, 265 (1990)).

This view is confirmed in this Court's decision in *United States v. Rahimi*, 602 U.S. 680 (2024). There, the Court analyzed historical laws dealing with certain dangerous persons to find that 18 U.S.C. § 922(g)(8) is consistent with historical tradition and therefore constitutional. *Id.* at 694-98. The Court never suggested Rahimi was not one of "the people" protected by the Second Amendment. Accordingly, Mr. Jackson must also be among "the people" to whom the Second Amendment applies.

2. There is no relevantly similar historical regulation that bans firearm possession for life.

Bruen provided guidance for conducting historical analyses of regulations relating to the Second Amendment. Courts must examine "whether 'historical precedent' from before, during, and even after the founding evinces a comparable tradition of regulation." *Bruen*, 597 U.S. at 27. Importantly, "not all history is created equal." *Id.* at 34. That is because "[c]onstitutional rights are enshrined with the scope they were understood to have when the people adopted them." *Id.* (quotations omitted). Historical evidence pre-dating the ratification of the Second Amendment "may not illuminate the scope of the right if linguistic or legal conventions changed in the intervening years." *Id.* Similarly, post-ratification laws that "are inconsistent

with the original meaning of the constitutional text obviously cannot overcome or alter that text." *Id.* at 36 (quotations and emphasis omitted).

Additionally, "[a] court must ascertain whether the new law is 'relevantly similar' to laws that our tradition is understood to permit, 'apply[ing] faithfully the balance struck by the founding generation to modern circumstances.'" *Rahimi*, 602 U.S. at 692 (quoting *Bruen*, 597 U.S. at 29). In doing so, "[w]hy and how the regulation burdens the right are central to this inquiry." *Id.* Thus, "if laws at the founding regulated firearm use to address particular problems, that will be a strong indicator that contemporary laws imposing similar restrictions for similar reasons fall within a permissible category of regulations." *Id.* However, "[e]ven when a law regulates arms-bearing for a permissible reason, . . . it may not be compatible with the right if it does so to an extent beyond what was done at the founding." *Id.* The burden thus falls squarely on the government to "affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms." *Bruen*, 597 U.S. at 19. If the government cannot do so, the regulation is unconstitutional.

In *Heller*, this Court confirmed an individual's right to keep and bear arms but cautioned that this right is "not unlimited." 554 U.S. at 626. As an example, the Court provided, in dicta, a non-exhaustive list of "*presumptively* lawful regulatory measures" which had not yet undergone a full historical analysis. *Id.* at 627 n.26 (emphasis added). This list included laws restricting firearm possession by felons and the mentally ill and the carrying of firearms in "sensitive places." *Id.* at 626. However,

Heller indicated there would be "time enough to expound upon the historical justifications for the exceptions we have mentioned if and when those exceptions come before us." *Id.*

That time is now for § 922(g)(1). Simply put, there is no "relevantly similar" historical tradition in the United States of the total and permanent disarmament of individuals simply based upon a felony conviction.

Under *Bruen*'s test, a court must examine relevant historical periods to determine whether there is an "historical analogue" to the total, permanent disarmament of felons contained in § 922(g)(1). As established in *Bruen*, the relevant historical period for examination would be "(1) . . . early modern England; (2) the American Colonies and the early Republic; (3) antebellum America; [and] (4) Reconstruction." *Bruen*, 597 U.S. at 34.

A fulsome review of these historical periods evinces a lack of relevant evidence of any analogue to the total, permanent disarmament contained in § 922(g)(1). Notably, neither the federal government nor a single state barred all people convicted of felonies from possessing firearms until the twentieth century. *See*, *e.g.*, Adam Winkler, *Heller's Catch-22*, 56 U.C.L.A. L. Rev. 1551, 1563 (2009). The modern version of § 922(g)(1) was adopted 147 years after the ratification of the Second Amendment. Congress's twentieth amendment decision to pass § 922(g)(1) therefore fails to offer support for the constitutionality of § 922(g)(1). *Bruen*, 597 U.S. at 66 n.28 ("[L]ate-19th-century evidence" and any "20th-century evidence . . . does not provide

insight into the meaning of the Second Amendment when it contradicts earlier evidence.").

English law, before the founding, did not impose lifetime bans on felons from ever again possessing a firearm. *See Kanter*, 919 F.3d at 457 (Barrett, J., dissenting); C. Kevin Marshall, *Why Can't Martha Stewart Have A Gun?*, 32 Harv. J.L. & Pub. Policy 695, 717 (2009); Joseph G.S. Greenlee, *The Historical Justification for Prohibiting Dangerous Persons from Possessing Arms*, 20 Wyo. L. Rev. 249, 260 (2020). To the extent that England sought to disarm individuals, those regulations usually required a more culpable mental state and made exceptions for self-defense. Indeed, *Rahimi* discussed at length these types of regulations, found in surety laws and laws against affray or going armed against the king's subjects. *See Rahimi*, 602 U.S. at 694-98.

To the extent that England sought to disarm whole classes of subjects, it permitted those targeted to keep arms for self-defense and individuals could cure the disarmament. For example, in the age of William and Mary (both Protestants), Catholics were presumed loyal to James II (a Catholic trying to retake the throne) and treasonous. Thus, Catholics could keep "Arms, Weapons, Gunpowder, [and] Ammunition," if they declared allegiance to the crown and renounced key parts of their faith. *See Bruen*, 597 U.S. at 45 n.12 (quoting 1 Wm. & Mary c. 15, § 4, in 3 Eng. Stat. at Large 399 (1688)). In short, the English never sought to disarm all felons. Rather, they limited the use of firearms by individuals deemed to be violent and rebellious. And even those individuals could keep arms for self-defense. This is not

"relevantly similar" to the wholesale and permanent prohibition contained in § 922(g)(1).

To the extent the new nation sought to disarm people, the regulatory approach in the Colonial and Founding era was much more limited than that contained in § 922(g)(1). For example, the Virginia colony (like the English) disarmed Catholics, who were still viewed as traitors to the crown. Robert H. Churchill, *Gun Regulation, the Police Power, and the Right to Keep Arms in Early America: The Legal Context of the Second Amendment*, 25 Law & Hist. Rev. 139, 157 (2007) (citation omitted). But there was an exception for weapons allowed "for the defense of his house and person[,]" and a person could absolve himself of the prohibition by taking an oath of "undivided loyalty to the sovereign." *Id.* Similarly, following the Declaration of Independence, Pennsylvania ordered that those who did not pledge allegiance to the Commonwealth and renounce British authority be disarmed. *Id.* at 159. Thus, to the extent that either regulation would comport with the Second Amendment, as understood today, they required a specific finding that a person posed a risk of violence to the state, and these regulations provided an avenue for relief from the prohibition.

Committing a serious crime at that time also did not result in permanent disarmament. For example, leaders of the Massachusetts Bay colony disarmed supporters of a banished seditionist. Greenlee, *supra*, at 263 (citations omitted). Nevertheless, "[s]ome supporters who confessed their sins were welcomed back into the community and able to retain their arms." *Id.* And in 1787, after participants in

Shay's Rebellion attacked courthouses, a federal arsenal, and the Massachusetts militia, they were barred from bearing arms, but for only three years. *Id.* at 268-67. In fact, Massachusetts law required the Commonwealth to hold and then return the rebels' arms after that period. *See* Act of Feb. 16, 1787, ch. VI, 1787 Mass. Acts 555.

American gun regulation during the nineteenth century—before and after the Civil War—also confirms that § 922(g)(1) does not comport with the "Nation's historical tradition of firearm regulation." *Bruen*, 597 U.S. at 34. The United States continued to regulate—but not ban—firearm possession by those feared to be violent. *See id*. at 55 (nineteenth century surety laws allowed people likely to breach peace to keep guns for self-defense or if posted bond). Again, this regulation is not similar to § 922(g)(1).

There are also at least two documented instances where attempts to disarm a class of offenders were rejected as inconsistent with the right to bear arms. First, as with Shay's Rebellion, Congress declined to fully disarm individuals who were part of militias in the former Confederacy, instead choosing simply to disband those militias. *See Whether the Second Amendment Secures an Individual Right*, 28 Op. O.L.C. 126, 226 (2004). This declination was based in part on the fear of some lawmakers that "disarm[ing] the citizens from whom the militia was drawn . . . would violate the Second Amendment." *Id.* Second, when a Texas law ordered the disarmament of people convicted of unlawfully using a pistol, it was struck down as unconstitutional under the Texas constitution. *Jennings v. State*, 5 Tex. Ct. App. 298, 298 (Tex. Ct. App. 1878).

In sum, § 922(g)(1)'s lifetime bar burdens the right to an extent beyond any regulation of the founding era. Indeed, the government's own search for laws permanently disarming a citizen has yielded only draft penal codes from the 1820s that "ultimately were not adopted." Brief in Opposition at 8, *Jackson v. United States*, No. 24-6517. Consistent with this lack of authority, *Rahimi* stressed that the disarmament provision there at issue was "temporary," lasting only "so long as the defendant 'is' subject to a restraining order," and thus burdening the right in a manner analogous to historical "surety bonds of limited duration." 602 U.S. at 699. The Court "conclude[d] only this: An individual found by a court to pose a credible threat to the physical safety of another may be *temporarily* disarmed consistent with the Second Amendment." *Id*. at 702 (emphasis added).

Again, "[w]hy and how the regulation burdens the right are central to the inquiry." *Id.* at 692. Section 922(g)(1) contains a lifetime prohibition on possession of firearms by all convicted felons, without an individualized determination of ongoing dangerousness. Under *Bruen*'s required analysis, § 922(g)(1)'s total, permanent disarmament of all felons is not constitutional

This issue is squarely preserved in Mr. Jackson's case, and there is no doubt of the question's magnitude: recent estimates of the number of individuals with felony convictions range from 19 million to 24 million. *See* Dru Stevenson, *In Defense of Felon-in-Possession Laws*, 43 Cardozo L. Rev. 1573, 1591 (2022); Sarah K.S. Shannon et al., *The Growth, Scope, and Spatial Distribution of People with Felony Records in the United States, 1948-2010*, 54 Demography 1795, 1807 (2017).

This Court should hear Mr. Jackson's case. Alternatively, this Court should hold Mr. Jackson's petition pending consideration of one of the many other petitions that will place these same issues before this Court. *See*, *e.g.*, Petition for Certiorari, *Stevens. v. United States*, 25-5027 (June 30, 2025); Petition for Certiorari*, Matlock v. United States*, No. 24-7398 (June 9, 2025); Petition for Certiorari, *Vincent v. Bond*, No. 24-1155 (May 8, 2025); Petition for Certiorari, *Underwood v. United States*, No. 24-7051 (Apr. 15, 2025).

Courts "are currently at sea when it comes to evaluating firearms legislation[,]" and are in "need [of] a solid anchor for grounding their constitutional pronouncements." *Rahimi*, 602 U.S. at 747 (Jackson, J., concurring). Despite serious concerns as to § 922(g)(1)'s constitutionality, the statute continues to result in the imprisonment of thousands of American citizens each year. *See* Petition for Writ of Certiorari at 22-24, *Garland v. Range*, No. 23-374 (Oct. 5, 2023) (citing statistics demonstrating that § 922(g)(1) is the most frequently applied provision of Section 922(g)). Only this Court can definitively settle this question.

CONCLUSION

For the reasons given above, Mr. Jackson's petition for a writ of certiorari should be granted. Alternatively, Mr. Jackson's petition should be held pending other petitions if this Court anticipates that it may grant a writ of certiorari on the issues raised herein.

Respectfully submitted,

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