No. 25–5434

IN THE

Supreme Court of the United States

CHRISTIAN LAMONT THOMPSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

SUPPLEMENTAL BRIEF OF PETITIONER

GEREMY C. KAMENS
Federal Public Defender

Patrick L. Bryant
Counsel of Record
Salvatore M. Mancina
Cadence A. Mertz
Assistant Federal Public Defenders
Office of the Federal Public Defender
for the Eastern District of Virginia
1650 King Street, Suite 500
Alexandria, VA 22314
(703) 600-0800
Patrick_Bryant@fd.org

February 24, 2026

SUPPLEMENTAL BRIEF OF PETITIONER

Pursuant to this Court's Rule 15.8, Petitioner Christian Thompson respectfully files this supplemental brief to apprise the Court of recent decisions that support his petition for a writ of certiorari.

As described in the Petition, the circuit courts are sharply divided over whether 18 U.S.C. § 922(g)(1) violates the Second Amendment, under any circumstances. And even among those courts that have found the law to be unconstitutional in at least some applications, the methodological approaches those courts have taken are mixed.

In its opposition, the government asserted that the split is "shallow." Opp. 2. That contention was wrong then, and it is even more wrong now. The Fifth Circuit has recently held that § 922(g)(1) is unconstitutional as applied to two defendants who are comparable to Petitioner.

First, in *United States v. Doucet*, the court concluded that the government "ha[d] not carried its burden to show a history or tradition of permanently disarming individuals guilty of attempted marijuana cultivation." *United States v. Doucet*, No. 24-30656, 2025 WL 3515404, at *1–*2 (5th Cir. Dec. 8, 2025) (citing test from *N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 24 (2022)). The court noted that the Louisiana statute under which Doucet was convicted criminalizes producing, manufacturing, distributing, or dispensing controlled substances. *Id.* The government argued that this offense was similar to Founding-era laws against trafficking in illicit or contraband goods, but that court held that such analogues were only similar at an improperly high level of generality. *Id.* at *3. The court also rejected the government's reference to a historical tradition of disarming "dangerous"

people, observing that even if such a basis for disarmament were valid, the government had offered nothing to prove that Doucet himself was "dangerous" based solely on a prior drug offense with no evidence of violence or weapon involvement. *Id.* at *3–*4.

Second, the Fifth Circuit held that § 922(g)(1) was unconstitutional as applied to a defendant whose only prior felony conviction was for possession of methamphetamine. *United States v. Hembree*, 165 F.4th 909 (5th Cir. 2026). At the outset, the court remarked that "[c]ircuits have diverged in application of *Bruen*'s framework," and that its approach is "more iterative [and] evolving" than other courts that permit as-applied challenges to § 922(g)(1). *Id.* at 911. As in *Doucet*, the court rejected the government's proposed analogues to early laws against possession of contraband, as well as its assertion that Congress could disarm anyone it deems to be "dangerous." *Id.* at 916–918. After all, the court reasoned, "*Rahimi* did not sweepingly proclaim that 'dangerousness' is the new standard for Second Amendment challenges." *Id.* at 918 (citing *United States v. Rahimi*, 602 U.S. 680, 690 (2024)).

The similarity between Petitioner's case and these Fifth Circuit decisions further demonstrates the need for this Court's review. Petitioner's only prior felony convictions were two charges of attempted distribution of cocaine dating to 2004 and 2008. C.A.J.A. 112–114 (PSR ¶¶ 44, 45). Due to the age of those convictions, the factual bases for them are unavailable, but they could have encompassed conduct as basic as offering to share cocaine with a friend without remuneration. To be sure, the Fifth Circuit has found § 922(g)(1) to be constitutional as applied to someone with a conviction for possession with intent to distribute drugs. *United States v. Mancilla*,

155 F.4th 449, 452 (5th Cir. 2025). But the Fifth Circuit also recognizes that Founding-era regulations of alcohol are the "next-closest historical analogue" to modern drug statutes, and that there is "no historical tradition" regulating "the illegal production or manufacturing of alcohol." *Hembree*, 165 F.4th at 917. Notably, like the Louisiana law at issue in *Doucet*, the statute under which Petitioner was convicted criminalizes manufacturing controlled substances as well as distributing them. D.C. Code § 48-904.01(a)(1).

At a minimum, the Fifth Circuit's "evolving" approach to as-applied challenges shows how desperate the lower courts are for clarity that only this Court can provide. The split among the circuits is intractable. This Court will continue to receive petitions like Mr. Thompson's until it finally agrees to resolve that division. And the fact that Petitioner would have a plausible as-applied challenge in other circuits highlights the consequences of the split. A person's freedom—and the availability of his Second Amendment rights—should not depend on whether he is prosecuted in Alexandria, Virginia, or Alexandria, Louisiana. For now, though, it does. Only this Court can correct the disparity, and this case offers an excellent opportunity to do so.

CONCLUSION

The Court should grant Mr. Thompson's petition.

Respectfully submitted,

GEREMY C. KAMENS
Federal Public Defender
for the Eastern District of Virginia

Patrick L. Bryant
Counsel of Record
Salvatore M. Mancina
Cadence A. Mertz
Assistant Federal Public Defenders
Office of the Federal Public Defender
for the Eastern District of Virginia
1650 King Street, Suite 500
Alexandria, VA 22314
(703) 600-0800
Patrick_Bryant@fd.org

February 24, 2026