No. ____

IN THE

Supreme Court of the United States

DEJUAN DION BRUNER,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether 18 U.S.C. § 922(g)(9), which imposes a lifetime prohibition on firearm possession by anyone convicted of a domestic-violence misdemeanor, is consistent with the Second Amendment given the absence of any historical tradition of permanent disarmament for misdemeanors or interpersonal-violence offenses.

RELATED PROCEEDINGS

This case arises from the following proceedings:

- *United States v. Bruner*, No. 23-6122 (10th Cir. June 2, 2025);
- *United States v. Bruner*, No. 22-cr-00518-SLP (W.D. Okla. August 23, 2023).

There are no other proceedings related to this case under Rule 14.1(b)(iii).

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Petitioner seeks review of the constitutionality of 18 U.S.C. § 922(g)(9), the so-called "Lautenberg Amendment," which permanently disarms anyone convicted of a domestic-violence misdemeanor. Unlike the temporary restrictions this Court upheld in *United States v. Rahimi*, 602 U.S. 680 (2024), § 922(g)(9) imposes an irrevocable lifetime ban—a regulatory form unknown to the founding generation. And it does so not for felonies, but for misdemeanors—offenses the law itself classifies as less serious. No other constitutional right is permanently extinguished because of a misdemeanor conviction. Yet under § 922(g)(9), a person who commits a misdemeanor at age 18 is forever barred from exercising the Second Amendment at age 80.

The lower courts have uniformly upheld the statute by invoking generalized notions of dangerousness while disregarding its defining features: permanence and

misdemeanor status. This petition presents the clean opportunity for the Court to decide whether the Second Amendment permits such a categorical, facial prohibition.

OPINIONS BELOW

The opinion of the Tenth Circuit Court of Appeals is at 2025 WL 1554092 (unpublished) and reproduced at App. A, 1a–2a.

JURISDICTION

The Tenth Circuit entered its judgment on June 2, 2025. Rehearing was not sought. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONST. amend. II:

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.

18 U.S.C. § 922(g)(1):

It shall be unlawful for any person 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

This petition presents the constitutionality of 18 U.S.C. § 922(g)(9), which imposes a lifetime firearms ban on anyone convicted of a misdemeanor crime of domestic violence. The prohibition applies automatically and permanently, without

regard to how long ago the conviction occurred or whether the person poses any present danger.

Petitioner Dejuan Bruner was indicted in the Western District of Oklahoma for violating § 922(g)(9). He moved to dismiss the indictment, arguing that § 922(g)(9) is facially unconstitutional under the Second Amendment because no historical tradition supports permanently disarming misdemeanants (domestic violence or otherwise). The district court denied the motion. Petitioner then entered a guilty plea without a plea agreement, thereby preserving his constitutional claim for appeal. See *Class v. United States*, 583 U.S. 174 (2018).

On direct appeal, Petitioner renewed his facial challenge under *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), and this Court's then-recent decision in *United States v. Rahimi*, 602 U.S. 680 (2024). *Rahimi* upheld § 922(g)(8)'s temporary prohibition on firearm possession for individuals subject to domestic-violence restraining orders, emphasizing that such restrictions were "relevantly similar" to founding-era laws because they were temporary, followed a judicial hearing with notice, and applied only upon a judicial finding of dangerousness. *Id.* at 693–94. Petitioner argued that § 922(g)(9) lacks any comparable historical analogue, as it imposes automatic, lifetime disarmament based solely on a misdemeanor conviction.

After Petitioner's opening brief was filed, the Tenth Circuit upheld § 922(g)(9) in *United States v. Jackson*, 138 F.4th 1244 (10th Cir. 2025). Relying on *Jackson*, the

government moved for summary affirmance in Petitioner's case. Petitioner did not oppose, and the Tenth Circuit granted the motion, affirming without opinion.

This petition follows. It presents a clean vehicle for deciding whether Congress may, consistent with *Bruen* and *Rahimi*, impose a lifetime firearms prohibition triggered only by a misdemeanor conviction.

REASONS FOR GRANTING THE PETITION

This Court's Second Amendment decisions make clear that firearm restrictions must be justified by historical tradition, not by policy judgments. *Bruen*, 597 U.S. at 29. In *Rahimi*, the Court upheld temporary disarmament under § 922(g)(8) because it resembled short-term historical restrictions tied to a contemporaneous judicial finding of dangerousness. 602 U.S. at 693–94.

Section 922(g)(9) is categorically different. It imposes permanent disarmament on the basis of a single misdemeanor conviction, without any adjudication of future dangerousness. The underlying proceeding does not ask whether the person poses a continuing threat, nor does it authorize temporary restrictions that expire once the threat abates. Instead, the statute automatically and forever deprives an individual of Second Amendment rights for an offense punishable only as a misdemeanor.

No founding-era analogue imposed such a sweeping and irrevocable penalty. At common law, felonies carried collateral consequences such as forfeiture of property and loss of civic rights, but misdemeanors—"smaller faults and omissions of less consequence"—were punishable only by fines or short confinement, not by lifelong exclusion from civil rights. *See* 4 W. Blackstone, *Commentaries on the Laws of*

England 5 (1769). Section 922(g)(9) is therefore not a modern extension of any historical tradition but a categorical innovation, and an especially troubling one because it strips a fundamental right permanently based on a misdemeanor conviction.

I. The Question Presented is Nationally Important.

Section 922(g)(9) reaches broadly, applying to anyone convicted of a domestic-violence misdemeanor, regardless of when the conviction occurred or whether the person poses any present danger. Its consequences are lifelong.

The statute applies regardless of rehabilitation or the passage of decades. Its scope is sweeping: someone who committed a misdemeanor in young adulthood, and has since lived peaceably, is nonetheless stripped of Second Amendment rights forever. No other constitutional right is permanently lost on this basis. A person who serves a misdemeanor sentence may vote, speak, travel, and worship freely. Only the Second Amendment is singled out for permanent extinction based on conduct the law itself classifies as a misdemeanor.

This mismatch—between offense severity and penalty severity—makes § 922(g)(9) a question of exceptional importance.

II. Section 922(g)(9) Lacks Any Historical Analogue of Permanent Disarmament.

Under *Bruen*, modern firearm restrictions are valid only if consistent with the Nation's historical tradition of firearm regulation. 597 U.S. at 24. No such tradition supports § 922(g)(9). The laws that did exist at the Founding were limited in scope

and duration, and they looked very different from the sweeping, permanent ban imposed here. For example:

- **Surety laws:** Beginning with Massachusetts in 1795, magistrates could require individuals accused of threatening violence to post bond for their future good behavior. Complaints had to be sworn before a justice of the peace, evidence was taken, and the accused could respond. Bonds could not exceed six months, and exceptions were recognized for self-defense or other legitimate purposes. *See Rahimi*, 602 U.S. at 696–97 (discussing 1795 Mass. Acts ch. 2; Mass. Rev. Stat., ch. 134, §§ 1, 3–4, 16). They were "of limited duration." *Id.* at 699.
- **Going armed / affray laws:** Rooted in the Statute of Northampton (1328) and adopted in several American colonies and states, these prohibited "'riding or going armed, with dangerous or unusual weapons, [to] terrify[ ] the good people of the land.'" *Rahimi*, 602 U.S. at 697 (quoting 4 W. Blackstone, *Commentaries on the Laws of England* 149). Punishments included forfeiture of the weapon and imprisonment. *See Rahimi*, 602 U.S. at 697–98. These measures, however, punished specific menacing conduct in public and imposed case-specific penalties. They did not create a permanent, categorical prohibition on arms possession by a broad class of people based solely on a past conviction.
- **Targeted disarmament of disloyal persons:** In times of rebellion or political upheaval, some states disarmed Catholics, loyalists, or those refusing oaths of allegiance. These measures were context-specific, tied to allegiance

during war or revolution, and aimed at preserving the security of the polity—not at imposing permanent civil disabilities for ordinary crimes. *See* Robert H. Churchill, *Gun Regulation, the Police Power, and the Right to Keep Arms in Early America*, 25 Law & Hist. Rev. 139, 157–59 (2007).

"Smaller faults and omissions of less consequence" were punishable by fines or brief confinement, but they did not result in permanent civic disabilities. 4 W. Blackstone, *Commentaries on the Laws of England* 5. There is no evidence that a "misdemeanor" (or analogous) conviction ever produced lifelong exclusion from civil rights such as the right to bear arms.

These examples confirm the historical pattern: restrictions were targeted at specific threats and addressed through temporary bonds, case-specific penalties such as forfeiture or imprisonment, or context-specific political measures. Even when lesser offenses triggered disarmament, the consequences were limited to the particular offense and its circumstances. None imposed the kind of automatic, lifetime prohibition that § 922(g)(9) mandates for all domestic-violence misdemeanants.

The government's appeal to generalized "dangerousness" cannot bridge this gap. Disarming Catholics, loyalists, or oath-refusers was about political allegiance, not ordinary interpersonal misconduct. And history supports disarming those adjudged presently dangerous, not imposing categorical, lifelong disabilities on all who once committed a misdemeanor offense. *See Kanter v. Barr*, 919 F.3d 437, 451 (7th Cir. 2019) (Barrett, J., dissenting) ("History is consistent with common sense: it

demonstrates that legislatures have the power to prohibit dangerous people from possessing guns.").

The contrast with *Rahimi* underscores the point. Section 922(g)(8) was upheld because the provision at issue was temporary, tailored to a contemporaneous judicial finding of danger. 602 U.S. at 693–94. Section 922(g)(9), by contrast, imposes permanent disarmament based solely on a misdemeanor domestic violence conviction, without any finding of future dangerousness. That absence of process and the lifetime nature of the prohibition underscore the lack of any founding-era analogue.

Section 922(g)(9) thus stands alone: a blanket, permanent firearms prohibition triggered by nothing more than a misdemeanor conviction. It is a modern innovation of permanent civic disability for misdemeanors, and precisely the kind of outlier *Bruen* described as "unimaginable at the founding." 597 U.S. at 2133.

III. Facial Challenge Standard.

This Court has described facial challenges as "the most difficult challenge to mount successfully because it requires a defendant to establish that no set of circumstances exists under which the [challenged statute] would be valid." *Rahimi*, 602 U.S. at 693 (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987)). At the same time, the Court has recognized that facial challenges are not categorically barred and has evaluated them by looking to what a statute actually authorizes. *City of Los Angeles v. Patel*, 576 U.S. 409, 415–18 (2015).

The Tenth Circuit in *Jackson* applied this framework and concluded that § 922(g)(9) survives a facial challenge because "the government only needs to demonstrate [the statute] is 'constitutional in some of its applications.'" 138 F.4th 1244, 1250 (10th Cir. 2025) (citing *Rahimi*, 602 U.S. at 693). In its view, the statute has at least some constitutional applications—such as prosecutions of individuals with recent or violent domestic-violence convictions—and that suffices to uphold it.

But that analysis misapprehends this Court's approach in *Bruen* and *Rahimi*. In *Rahimi*, the Court upheld § 922(g)(8) by identifying the statute's defining feature—temporary disarmament following an adversarial finding of dangerousness—and finding it "relevantly similar" to founding-era analogues. 602 U.S. at 692–98. The inquiry turned on the statute's core operation, not whether some applications might look reasonable.

Section 922(g)(9) lacks any such analogue. Its defining feature—automatic, lifetime disarmament triggered solely by a misdemeanor conviction—is not incidental but is the statute's entire operation. Because that feature has no historical foundation, § 922(g)(9) fails even under the demanding *Salerno* standard.

IV. The Lower Courts Are Uniformly Upholding § 922(g)(9) Without Grappling With Its Permanence and Misdemeanor Basis.

Every court of appeals to address § 922(g)(9) post-*Bruen* has upheld it. *See United States v. Gailes*, 118 F.4th 822 (6th Cir. 2024); *United States v. Nutter*, 137 F.4th 225 (4th Cir. 2025); *United States v. Jackson*, 138 F.4th 1244 (10th Cir. 2025). Collectively, these courts have invoked generalized notions of dangerousness, analogies to felon disarmament, and the availability of collateral relief.

The Sixth Circuit in *Gailes* acknowledged that *Rahimi* addressed a temporary restriction, but concluded that permanence "does not change our conclusion" because it had previously upheld a permanent felon ban in *Williams*. 118 F.4th at 834–35. The court also reasoned that § 922(g)(9)'s ban is not truly permanent, pointing to collateral avenues such as pardons, expungement, or restoration of civil rights. *Id.* (citing *Stimmel v. Sessions*, 879 F.3d 198, 207 (6th Cir. 2018)).

The Fourth Circuit in *Nutter* likewise rejected the argument that § 922(g)(9) is facially invalid because of its permanence. The court reasoned that some applications of the statute — such as recent or repeat domestic-violence convictions — are "plainly permissible" under *Rahimi*, and that relief mechanisms in 18 U.S.C. § 921(a)(33)(B)–(C) prevent the statute from being a per se permanent ban. 137 F.4th at 232–33. The court also suggested that because restraining orders in *Rahimi* were issued under lower standards, a fortiori a criminal conviction justifies longer disarmament. *Id.*

These rationales miss the constitutional point. *Bruen* requires the government to identify a "well-established and representative" historical analogue for the regulation itself. 597 U.S. at 30. The fact that § 922(g)(9) may sweep in some recent, violent conduct does not supply the missing analogue for permanent disarmament of misdemeanants as a class. And collateral avenues such as pardons or expungements are discretionary acts of grace, not constitutional substitutes for historical grounding. This Court has protected the People against such claims from the government before. *See United States v. Stevens*, 559 U.S. 460, 480 (2010) ("[T]he First Amendment protects against the Government; it does not leave us at the mercy of *noblesse oblige*.

We would not uphold an unconstitutional statute merely because the Government promised to use it responsibly."). The Second Amendment is not less worthy of protection. Like other guarantees in the Bill of Rights, it is a constraint on government power, not a privilege to be withdrawn or restored at the government's discretion. *See McDonald v. City of Chicago*, 561 U.S. 742, 778 (2010) (describing the right to keep and bear arms as "fundamental right[ ] necessary to our system of ordered liberty").

V. This Case is an Ideal Vehicle.

The constitutional issue was preserved in Bruner's opening brief. The court of appeals resolved his appeal solely by reference to *Jackson*, which squarely decided the question. There are no factual disputes or procedural obstacles. This case provides the Court with a clean vehicle to determine whether § 922(g)(9)'s lifetime ban is consistent with the Second Amendment, and whether any provision of § 922(g) can be invalidated on its face.

CONCLUSION

For the foregoing reasons, the Court should grant certiorari.

Respectfully submitted,

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