

No. 25-5597

IN THE SUPREME COURT OF THE UNITED STATES

JOSEPH CARROLL BUSH, III, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

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Petitioner contends (Pet. 14-24) that 18 U.S.C. 922(g)(1) violates the Second Amendment on its face and as applied to him. For the reasons set out in the government's brief opposing certiorari in French v. United States, 145 S. Ct. 2709 (2025), the contention that Section 922(g)(1) is facially unconstitutional does not warrant this Court's review. See ibid. (denying certiorari). As the government explained in French, that contention plainly lacks merit, and every court of appeals to consider the issue since United States v. Rahimi, 602 U.S. 680 (2024), has determined that the statute has at least some valid

applications. See Br. in Opp. at 3-6, French, supra (No. 24-6623).

Similarly, 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. Petitioner was on probation when he violated Section 922(g)(1). See Presentence Investigation Report (PSR) ¶¶ 1, 31. Every court of appeals to consider the question has accepted Section 922(g)(1)'s validity as applied to a convicted felon who is still on parole or another form of supervision. See United States v. Quailes, 126 F.4th 215, 221-

224 (3d Cir. 2025), cert. denied, No. 24-7033 (Oct. 6, 2025); United States v. Moore, 111 F.4th 266, 272 (3d Cir. 2024), cert. denied, 145 S. Ct. 2849 (2025); United States v. Giglio, 126 F.4th 1039, 1042-1046 (5th Cir. 2025); United States v. Goins, 118 F.4th 794, 804-805 (6th Cir. 2024); United States v. Gay, 98 F.4th 843, 847 (7th Cir. 2024); see also Range v. Attorney General, 124 F.4th 218, 232 (3d Cir. 2024) (en banc) (emphasizing that the challenger had “completed his sentence”).

Additionally, petitioner possessed a firearm in this case while being arrested for domestic assault, PSR ¶ 8, and he had prior felony convictions for armed bank robbery, use of a firearm during a felony, and possession of a firearm by a violent felon, PSR ¶¶ 29, 31. 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. Canada, 123 F.4th 159, 161 (4th Cir. 2024) (Section 922(g)(1) may be constitutionally applied to “people who have been convicted of a drive-by-shooting, carjacking, [and] armed bank robbery”); United States v. White, No. 23-3013, 2025 WL 384112, at *2 (3d Cir. Feb. 4, 2025) (rejecting as-applied challenge by 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 felon with prior state felony conviction for illegal use of weapons).

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

Respectfully submitted.

D. JOHN SAUER
Solicitor General

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* Copies of the government's briefs in opposition in French and Vincent are being served on petitioner. The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.