

No. 25-6063

IN THE SUPREME COURT OF THE UNITED STATES

TIMOTHY LEBLANC, PETITIONER

v.

UNITED STATES OF AMERICA

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

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether 18 U.S.C. 922(g)(1), the federal statute that prohibits a person from possessing a firearm if he has been convicted of "a crime punishable by imprisonment for a term exceeding one year," complies with the Second Amendment.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1-6) is unreported but is available at 2025 WL 2218881. The order of the district court (Pet. App. 8-36) is reported at 707 F.Supp.3d 617.

JURISDICTION

The judgment of the court of appeals was entered on August 5, 2025. The petition for a writ of certiorari was filed on November 3, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

A grand jury in the United States District Court for the Middle District of Louisiana indicted petitioner on one count of possessing a firearm following a felony conviction, in violation of 18 U.S.C. 922(g)(1). Indictment 1. The district court dismissed the indictment with prejudice. Pet. App. 8-36. The court of appeals reversed. Id. at 1-6.

1. Petitioner is a convicted felon with a history of violence. D. Ct. Doc. 7, at 4-5 (June 15, 2023). In 2004, at the age of 18, he committed a felony theft. Id. at 4. He was convicted and sentenced to probation. Ibid. The next year, while on probation, he was arrested for burglary and armed robbery. Ibid. As a result, his theft probation was revoked, and he was ordered to serve two years in prison. Ibid. He was also convicted of the armed robbery and sentenced to 15 years of imprisonment. Ibid. After approximately a decade in prison, petitioner was released on parole. Ibid. In 2018, a little more than a year into his term of parole, he was arrested for unlawfully possessing a firearm as a convicted felon. Id. at 4-5. He pleaded guilty to a reduced charge of illegal carrying of weapons, a misdemeanor. Id. at 5.

In 2022, petitioner was pulled over by police because the car he was driving had a fake temporary license tag. Pet. App. 9. Officers conducted a consent search of the car and found a firearm. Ibid. Petitioner admitted that the gun was his, and he was

arrested for possessing a firearm following a felony conviction. Id. at 9-10; D. Ct. Doc. 7, at 5.

2. A federal grand jury in the Middle District of Louisiana returned an indictment charging petitioner with possessing a firearm following a felony conviction, in violation of 18 U.S.C. 922(g)(1). Indictment 1. Petitioner moved to dismiss the indictment, contending that felon disarmament is not consistent with historical firearm restrictions as required by this Court's decision in New York State Rifle & Pistol Ass'n v. Bruen, 597 U.S. 1 (2022). The district court granted petitioner's motion and dismissed the indictment with prejudice. Pet. App. 8-36.

The district court concluded that Section 922(g)(1) is unconstitutional as applied to petitioner under Bruen. Pet. App. 18-32. The court expressed "frustrat[ion]" with the government's failure to secure testimony or amicus briefs from historians. Id. at 22. And it faulted the government's proffered historical analogues as not "[r]elevantly [s]imilar" to Section 922(g)(1). Id. at 19; see id. at 19-32. The court acknowledged that the historical record may support disarming violent felons, including petitioner. Id. at 33. But, it explained, the government had not provided sufficient historical "evidence" on that issue. Id. at 34. Because the court determined that petitioner should prevail on his as-applied challenge to Section 922(g)(1), the court did not reach his facial challenge. Ibid.

3. The court of appeals reversed. Pet. App. 1-6. The court determined that petitioner's facial and as-applied challenges were foreclosed by its prior decision in United States v. Diaz, 116 F.4th 458 (5th Cir. 2024), cert. denied, 145 S. Ct. 2822 (2025). Pet. App. 3-4. The court explained that the government had "plainly" met its burden under Bruen to identify a longstanding historical tradition of disarming individuals whose criminal history is meaningfully analogous to petitioner's. Id. at 4. The court explained that, in Diaz, it had determined that theft was subject to capital punishment or estate forfeiture at the time the Second Amendment was ratified, and petitioner's prior Louisiana felony convictions for theft and armed robbery were "no less serious" than the crimes analyzed in Diaz. Id. at 5. The court observed that other Fifth Circuit panels had reaffirmed that Diaz forecloses as-applied challenges to Section 922(g)(1) for theft-related felonies, including robbery and burglary. Id. at 5-6 (citing United States v. Schnur, 132 F.4th 863, 871 (5th Cir. 2025); United States v. Charles, No. 23-50131, 2025 WL 416092, at *1 (5th Cir. Feb. 6, 2025) (per curiam), cert. denied, 145 S. Ct. 2805 (2025); United States v. Collette, No. 22-51062, 2024 WL 4457462, at *2 (5th Cir. Oct. 10, 2024) (per curiam), cert. denied, 145 S. Ct. 2853 (2025)).

ARGUMENT

Petitioner renews his contentions (Pet. 15-33) that Section 922(g)(1) violates the Second Amendment facially and as applied to

him. As an initial matter, the decision's interlocutory posture "alone furnishe[s] sufficient ground for the denial of" his petition. Hamilton-Brown Shoe Co. v. Wolf Bros. & Co., 240 U.S. 251, 258 (1916); see Brotherhood of Locomotive Firemen & Enginemen v. Bangor & Aroostook R.R., 389 U.S. 327, 328 (1967) (per curiam); Virginia Mil. Inst. v. United States, 508 U.S. 946, 946 (1993) (Scalia, J., respecting the denial of the petition for writ of certiorari); see also Stephen M. Shapiro et al., Supreme Court Practice § 4.18 & n.72, at 282-283 (10th ed. 2013) (noting that the Court routinely denies interlocutory petitions in criminal cases). If petitioner is ultimately convicted on remand to the district court and if his conviction and sentence are upheld in any subsequent appeal, he will be able to raise his current claims, together with any other claims that may arise during trial and sentencing, in a single petition for a writ of certiorari. See Major League Baseball Players Ass'n v. Garvey, 532 U.S. 504, 508 n.1 (2001) (per curiam) (This Court "ha[s] authority to consider questions determined in earlier stages of the litigation where certiorari is sought from the most recent" judgment.). This case presents no occasion for this Court to depart from its usual practice of awaiting final judgment before determining whether to review a challenge to a criminal conviction or sentence.

Furthermore, 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).

Finally, for the reasons set out in the government's brief opposing certiorari in Vincent v. Bondi, No. 24-1155 (Aug. 11, 2025), petitioner's as-applied challenge does not warrant review by this Court. 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 re-establishment 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 possessed a firearm in this case after sustaining felony convictions for theft and

armed robbery. D. Ct. Doc. 7, at 4. 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,” inter alia, “armed bank robbery.”); United States v. Diaz, 116 F.4th 458, 467-471 (5th Cir. 2024) (rejecting as-applied challenge raised by defendant convicted of theft), cert. denied, 145 S. Ct. 2822 (2025); Pitsilides v. Barr, 128 F.4th 203, 213 (3d Cir. 2025) (district courts may consider “the context and circumstances” of a previous offense in deciding an as-applied challenge to Section 922(g)(1)).*

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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* Copies of the government's briefs in opposition in French and Vincent are being served on petitioner.