

No. 25-6105

IN THE SUPREME COURT OF THE UNITED STATES

BRITTANY LYN ISAACSON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH 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 she has been convicted of "a crime punishable by imprisonment for a term exceeding one year," complies with the Second Amendment.

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OPINION BELOW

The opinion of the court of appeals (Pet. App. A9-A10) is available at 2025 WL 1937522.

JURISDICTION

The judgment of the court of appeals was entered on July 15, 2025. A petition for rehearing was denied on August 11, 2025 (Pet. App. A11). The petition for a writ of certiorari was filed on November 5, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a guilty plea in the United States District Court for the District of Wyoming, petitioner was convicted of possessing a firearm following a felony conviction, in violation of 18 U.S.C. 922(g)(1). Pet. App. A1. She was sentenced to 26 months of imprisonment, to be followed by three years of supervised release. Id. at A2-A3. The court of appeals affirmed. Id. at A9-A10.

1. In October 2023, police in Fremont County, Wyoming, conducted a traffic stop of a car in which petitioner was a passenger. Presentence Investigation Report (PSR) ¶ 4. Petitioner was in possession of 179 fentanyl tablets. PSR ¶¶ 4, 7. Police also found two firearms on the floorboard of the passenger seat, and petitioner admitted that she carried one of the firearms in her purse. PSR ¶ 4. Petitioner had previously been convicted of felony child endangering. PSR ¶¶ 4, 34.

2. A federal grand jury in the District of Wyoming indicted petitioner on one count of possessing firearms following a felony conviction, in violation of 18 U.S.C. 922(g)(1). Indictment 2. Petitioner moved to dismiss the indictment, arguing that Section 922(g)(1) violates the Second Amendment facially and as applied to her. See D. Ct. Doc. 38 (Feb. 19, 2024). The district court denied that motion, D. Ct. Doc. 51 (Mar. 19, 2024), and petitioner pleaded guilty, Pet. App. A1.

3. The court of appeals affirmed. Pet. App. A9-A10. The court rejected petitioner's contention that Section 922(g)(1)

violates the Second Amendment, finding the challenge foreclosed by circuit precedent. Id. at A10 (citing Vincent v. Bondi, 127 F.4th 1263 (10th Cir. 2025), petition for cert. pending, No. 24-1155 (filed May 8, 2025)).

ARGUMENT

Petitioner renews her contentions (Pet. ii, 4-15) that 18 U.S.C. 922(g)(1) violates the Second Amendment facially and as applied to her. 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).

Petitioner does not develop any argument that Section 922(g)(1) is unconstitutional as applied to her beyond the conclusory assertion (Pet. 3) that her felony child-endangering conviction was "nonviolent." In any event, her as-applied challenge does not warrant this Court's review for the reasons set out in the government's brief opposing certiorari in Vincent v. Bondi, No. 24-1155 (Aug. 11, 2025). 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. Notwithstanding petitioner's contention (Pet. 3) that her felony child-endangering offense was "nonviolent," that conviction clearly establishes that petitioner "present[s] a special danger of misuse," Rahimi, 602 U.S. at 698: She was found sitting in a car with her child outside of a burning house and convicted of causing the child to enter a house that she knew was being used to manufacture methamphetamine, PSR ¶ 34; D. Ct. Doc. 38, at 1-2. Petitioner also possessed a firearm in this case while she had a distribution amount of fentanyl in her pocket, and she admitted to selling drugs in the past. PSR ¶¶ 4, 7; see PSR ¶ 41 (describing Wyoming felony drug charges in connection with the traffic stop in this case); PSR ¶¶ 30-31 (prior convictions for possessing and using methamphetamine). Given her criminal history, petitioner cannot show that she would prevail on

an as-applied challenge in any circuit. See, e.g., United States v. Williams, 113 F.4th 637, 659 (6th Cir. 2024) (recognizing Section 922(g)(1)'s constitutionality as applied to those convicted of "drug trafficking"); United States v. White, No. 23-3013, 2025 WL 384112, at *2 (3d Cir. Feb. 4, 2025) (rejecting an as-applied challenge brought by a felon with a previous conviction for, inter alia, drug distribution), cert. denied, 145 S. Ct. 2805 (2025).*

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.