

No. 25-6217

IN THE SUPREME COURT OF THE UNITED STATES

CHRISTOPHER WUCHTER, PETITIONER

v.

UNITED STATES OF AMERICA

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

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

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Petitioner contends (Pet. 10-13) that 18 U.S.C. 922(g)(3), the federal statute that prohibits a person from possessing a firearm if he "is an unlawful user of or addicted to any controlled substance," ibid., violates the Second Amendment on its face. A facial challenge to a federal statute is the "'most difficult challenge to mount successfully,' because it requires a defendant to 'establish that no set of circumstances exists under which the Act would be valid.'" United States v. Rahimi, 602 U.S. 680, 693 (2024) (citation omitted). If the challenged statute complies

with the Constitution in even “some of its applications,” the facial challenge fails. Ibid.

Section 922(g)(3) plainly has at least some valid applications. For instance, the government may apply Section 922(g)(3) to unlawful drug users who misuse firearms while under the influence of drugs. See United States v. Connelly, 117 F.4th 269, 282 (5th Cir. 2024). That ends the facial challenge. The courts of appeals to consider the question since New York State Rifle & Pistol Ass’n v. Bruen, 597 U.S. 1 (2022), have rejected facial challenges to Section 922(g)(3) and have recognized that the statute has at least some valid applications. See Connelly, 117 F.4th at 280-282; United States v. Seiwert, 152 F.4th 854, 872 (7th Cir. 2025); United States v. Veasley, 98 F.4th 906, 917 (8th Cir.), cert. denied, 145 S. Ct. 304 (2024); United States v. Stennerson, 150 F.4th 1276, 1285 (9th Cir. 2025).

This Court is currently considering an as-applied Second Amendment challenge to Section 922(g)(3) in United States v. Hemani, cert. granted, No. 24-1234 (Oct. 20, 2025). But this case involves only a facial challenge. See Pet. i (asking whether Section 922(g)(3) “facially” violates the Second Amendment); Pet. 11 (arguing that statute is “facially unconstitutional”). Even while the petition in Hemani was pending, this Court denied another petition for a writ of certiorari raising only a facial challenge to Section 922(g)(3). See Smith v. United States, No. 24-6936 (Oct. 6, 2025). The Court should do the same here.

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

Respectfully submitted.

D. JOHN SAUER
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* The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.