Number _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2025

KING BELIN,

***Petitioner*,**

v.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

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QUESTIONS PRESENTED

1. Whether 18 U.S.C. § 922(g)(1) is unconstitutional as applied to a defendant whose prior conviction is not accompanied by any judicial finding that he poses a present danger to the physical safety of others, where the Government does not prove that permanently disarming such individuals is consistent with the Nation's historical tradition of firearm regulation.

2. Whether a defendant preserves an as-applied constitutional challenge to § 922(g)(1) for appellate review by filing and litigating a pretrial motion to dismiss the indictment on Second Amendment grounds, or whether a court of appeals may treat the claim as forfeited and apply plain-error review.

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Petitioner, King Belin, respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the First Circuit, decided on February 13, 2026.

This case does not merely present an unsettled question concerning the Second Amendment. It presents a recurring institutional problem concerning the implementation of this Court's precedent. After this Court held in *New York State Rifle & Pistol Ass'n v. Bruen* that firearm regulations must be tested against the Nation's historical tradition, several courts of appeals have resolved constitutional challenges to 18 U.S.C. § 922(g)(1) without applying that framework at all--by recharacterizing fully litigated constitutional motions as forfeited and affirming convictions under plain-error review. That procedural approach allows lower courts to sustain criminal convictions while declining to determine whether the statute of conviction is constitutional. If permitted to continue, this method will prevent *Bruen* from governing a substantial category of federal prosecutions, because constitutional questions will never be reached on the merits. This Court's review is therefore necessary not only to resolve an important constitutional question, but to ensure that its decisions remain binding law rather than avoidable guidance.

The petition also presents the question in an ideal posture for review. The constitutional issue was raised in a written pretrial motion,

argued, and decided; the court of appeals nonetheless affirmed without applying *Bruen's* historical-tradition analysis by invoking plain-error review. At the same time, the courts of appeals are divided on whether § 922(g)(1) may be enforced, as applied, against non-dangerous individuals absent a founding-era tradition of permanent disarmament. This case therefore squarely presents both the preservation question and the underlying constitutional conflict, in a clean record and on a purely legal dispute.

The Third Circuit, sitting *en banc*, has required the Government to satisfy *Bruen's* historical-tradition burden in as-applied challenges to § 922(g)(1) and has invalidated the statute where that burden was not met. Other circuits have treated felony status as effectively dispositive, declining to conduct the searching historical inquiry *Bruen* demands. *See, generally, United States v. Lewis*, 2026 U.S. App. LEXIS 4415, *2 (10th Cir. Feb. 13, 2026)(" ... in *United States v. McCane*, 573 F.3d 1037, 1047 (10th Cir. 2009), we held that § 922(g)(1) does not violate the Second Amendment. And since then, we have upheld *McCane*, even after *Bruen* and *Rahimi*. *See Vincent v. Bondi*, 127 F.4th 1263, 1265-66

(10th Cir. 2025), *petition for cert. filed* (U.S. May 12, 2025) (No. 24-1155). It does not matter whether Lewis's predicate felony prohibiting his possession of firearms was for a non-violent offense. *See id*. at 1266 ("McCane . . . upheld the constitutionality of § 922(g)(1) for all individuals convicted of felonies, including 'nonviolent offenders'); *United States v. Warner*, 131 F.4th 1137, 1148 (10th Cir. 2025)("[E]ven after *Rahimi*, § 922(g)(1) is constitutional as applied to non-violent felons"); *United States v. Hicks*, 2026 U.S. App. LEXIS 4099, *10 (11th Cir. Feb. 10, 2026)("Hicks also argues that § 922(g)(1) is facially unconstitutional and as applied to him. But in *United States v. Rozier*, 598 F.3d 768 (11th Cir. 2010), and later in *United States v. Dubois*, 139 F.4th 887 (11th Cir. 2025) ('Dubois II'), we have rejected this constitutional challenge.").

The result is that the scope of a fundamental constitutional right now depends on geography. That lack of uniformity alone warrants this Court's review.

OPINIONS BELOW

There were two opinions below, one by the United States District Court for the District of Massachusetts, filed on March 2, 2023, *United States v. Belin*, 2023 U.S. Dist. LEXIS 36101 (D. Mass. March 2, 2023) and the other by the First Circuit Court of Appeals, filed on February 13, 2026.

JURISDICTION

The order of the Court of Appeals was filed on February 13, 2026, and this petition for a writ of certiorari is being filed within 90 days thereof.

This Court's jurisdiction is invoked under 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Second Amendment provides: "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) provides that any person convicted of a crime punishable by imprisonment for a term exceeding one year may not possess a firearm.

STATEMENT OF THE CASE

Petitioner King Belin was charged in the District of Massachusetts with a single count of being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). The firearm was recovered during a traffic stop in December 2020. Petitioner stipulated to his prohibited status and knowledge thereof. A jury convicted him. The district court sentenced him to 51 months' imprisonment.

Petitioner's prior conviction did not involve any judicial finding that he posed a continuing threat to the physical safety of another person. He was not subject to a restraining order, a judicial dangerousness determination, or any adjudication comparable to the finding at issue in *Rahimi*. The sole basis for his permanent disarmament was felony status alone.

Prior to trial, Petitioner moved to dismiss the indictment on Second Amendment grounds. Relying on *Bruen*, he argued that § 922(g)(1) is unconstitutional *as applied to him* because he has never been adjudicated a credible threat to the physical safety of another, and because the Government could not demonstrate a historical tradition

supporting lifetime, categorical disarmament of non-dangerous individuals.

The district court denied the motion, concluding that *Bruen* did not disturb prior precedent upholding the felon-in-possession statute.

In denying the motion, the district court relied principally on pre-*Bruen* precedent and the statement in *District of Columbia v. Heller*, 554 U.S. 570, 128 S. Ct. 2783, 171 L. Ed. 2d 637 (2008), describing certain prohibitions as "presumptively lawful." The Court did not require the Government to identify founding-era analogues demonstrating a historical tradition of permanently disarming individuals like Petitioner.

On appeal, Petitioner renewed his as-applied Second Amendment challenge. The Government argued that the challenge was unpreserved and meritless, and that § 922(g)(1) is categorically constitutional.

Prior to this case, the First Circuit had only addressed a *Bruen* challenge one time, in August 2, 2024, in *United States v. Langston*, 110 F.4th 408, 419 (1st Cir. 2024). Yet it never addressed the challenge on the merits. *Id*. (" ... because Langston concedes that he never made his Second Amendment claim to the district court, both parties agree that we

must review Langston's claim only for plain error."). Under plain error review, the First Circuit said "[o]ur decision here, however, is not on the merits."). Although this case was nearly identical to Langston, defense counsel not only objected, but filed a written motion, and had a hearing, at which the district court itself said the "primary issue" in Petitioner's facial challenge to 922(g)(1) was "whether [*Bruen*] applies to" him. Still, the First Circuit analyzed the 922(g)(1) challenge under plain error standards. This Petition follows.

The constitutional issue was fully presented, briefed, and argued. Defense counsel filed a written motion to dismiss the indictment under *Bruen*, argued that the Second Amendment's text covers Petitioner's conduct, and contended that the Government bore the burden of identifying a relevant historical analogue. The district court ruled directly on that question. The issue was renewed on appeal. The First Circuit nevertheless treated the claim as forfeited and applied plain-error review, thereby avoiding full consideration of *Bruen's* framework.

There is no alternative ground supporting the judgment below. The First Circuit did not hold that § 922(g)(1) satisfies *Bruen's* historical-tradition test after full analysis. Instead, it resolved the case on

a procedural theory of forfeiture. If that procedural ruling is incorrect, the constitutional question must be reached. The case thus squarely presents both the preservation issue and the underlying Second Amendment question.

STATEMENT OF FACTS

Petitioner was stopped during a routine traffic encounter in December 2020. During that stop, law enforcement officers recovered a firearm. There was no allegation that Petitioner brandished the firearm, threatened anyone, or used it in connection with a violent offense. The prosecution rested entirely on possession.

Petitioner stipulated at trial that he had previously been convicted of a felony offense and that he knew of that status at the time of possession. The jury's verdict thus turned solely on the statutory elements of § 922(g)(1).

Petitioner's prior conviction did not include any judicial finding that he posed a credible or continuing threat to the physical safety of another. Nor did it result in any individualized determination that permanent disarmament was necessary for public safety. His disarmament arises automatically and permanently from felony status alone.

Before trial, Petitioner filed a motion to dismiss the indictment under *Bruen*, arguing that possession of a firearm falls within the Second Amendment's plain text and that the Government therefore bore

the burden to demonstrate a founding-era tradition supporting his permanent disarmament. The District Court acknowledged that the "primary issue" was whether *Bruen* applied to individuals with prior felony convictions, yet denied the motion without requiring the Government to satisfy *Bruen's* historical-tradition test.

Nothing in the record suggests that Petitioner has ever been adjudicated dangerous, violent, or disloyal in a manner historically associated with disarmament at the Founding. His permanent loss of Second Amendment rights flows automatically and exclusively from felony status. That categorical and lifelong deprivation is the precise constitutional question presented here.

SUMMARY OF ARGUMENT

This case presents a foundational constitutional question left unresolved by this Court's modern Second Amendment jurisprudence: whether the Government may permanently disarm a citizen for life based solely on felony status, without any judicial determination that he poses a present danger to the physical safety of others. In *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 142 S. Ct. 2111, 213 L. Ed. 2d 387 (2022),

this Court held that, when the Second Amendment's text covers an individual's conduct, the Government bears the burden of demonstrating that its regulation is consistent with this Nation's historical tradition of firearm regulation. That test is categorical and historically grounded; it does not permit courts to uphold firearm restrictions based on policy judgments or generalized assertions of public safety.

In *United States v. Rahimi*, ___ U.S. ___, 144 S. Ct. 1889, 219 L. Ed. 2d 351 (2024), this Court reaffirmed that dangerousness is the central historical principle underlying disarmament laws. The Court upheld temporary disarmament of an individual subject to a domestic violence restraining order precisely because he had been judicially found

to pose a credible threat to the physical safety of another. The Court did not uphold permanent, status-based disarmament of all felons, nor did it suggest that felony status alone substitutes for the historical inquiry that *Bruen* requires.

Yet the lower courts are deeply divided on how to apply *Bruen* to 18 U.S.C. § 922(g)(1). The Third Circuit Court of Appeals has held the statute unconstitutional as applied to certain non-violent offenders. *Range v. Att'y General*, 69 F.4th 96 (3d Cir. 2023)(*en banc*)("We agree with Range that, despite his false statement conviction, he remains among 'the people' protected by the Second Amendment. And because the Government did not carry its burden of showing that the principles underlying our Nation's history and tradition of firearm regulation support disarming Range, we will reverse and remand.").

Other circuits--including the First Circuit here--have effectively upheld the statute categorically or have declined to conduct meaningful as-applied historical analysis based on claimed plain error review. This fragmentation produces inconsistent constitutional outcomes across the nation and leaves millions of Americans subject to permanent disarmament under a doctrinal framework that varies by jurisdiction.

The divergence among the circuits concerns both methodology and outcome. Some courts require the Government to demonstrate a relevant historical analogue tied to dangerousness. Others rely on *Heller's* "presumptively lawful" language as effectively dispositive, bypassing the historical inquiry Bruen requires. The conflict therefore implicates not only § 922(g)(1), but the integrity of *Bruen's* governing framework itself.

The First Circuit's decision below conflicts with *Bruen* in two fundamental respects. First, it fails to require the Government to identify founding-era analogues supporting lifetime disarmament of non-dangerous individuals. Instead, it relies on dicta from *District of Columbia v. Heller,* 554 U.S. 570, 128 S. Ct. 2783, 171 L. Ed. 2d 637 (2008), describing felon-disarmament laws as "presumptively lawful." But *dicta* cannot substitute for the historical record. *Bruen* explicitly rejected such balancing approaches and required courts to ground modern regulations in historical tradition.

Second, the decision below collapses the distinction between dangerousness-based disarmament and status-based civil exclusion. The historical record demonstrates that the Founding generation disarmed

persons deemed dangerous or disloyal--such as rebels or those actively threatening public safety. It does not demonstrate a tradition of permanently disarming all persons convicted of any felony, regardless of whether they pose a continuing threat.

The first federal felon-disarmament statute did not appear until 1938--nearly 150 years after ratification of the Second Amendment. The modern version of § 922(g)(1) is a twentieth-century innovation. It is not rooted in founding-era practice.

This case cleanly presents the question whether Bruen applies to § 922(g)(1). The issue was squarely raised and preserved. The record is straightforward. There are no procedural barriers. The question is purely legal.

If *Bruen* means what it says--that historical tradition controls--then the Government must justify permanent disarmament with founding-era evidence. If it cannot, then §922(g)(1), at least as applied to non-dangerous individuals, violates the Second Amendment.

This Court's review is urgently needed to resolve the circuit conflict, clarify the scope of *Bruen* and *Rahimi*, and determine whether

permanent disarmament based solely on felony status comports with the Constitution.

REASONS FOR GRANTING THE WRIT

CERTIORARI IS WARRANTED BECAUSE THE COURTS OF APPEALS ARE DIVIDED OVER WHETHER *BRUEN* REQUIRES HISTORICAL JUSTIFICATION FOR LIFETIME FELON DISARMAMENT AND WHETHER A FULLY LITIGATED CONSTITUTIONAL CHALLENGE MAY BE DOWNGRADED TO PLAIN-ERROR REVIEW.

The First Circuit did not reject Belin's Second Amendment claim --it declined to decide it. This case presents a recurring post-*Bruen* problem that only this Court can resolve. When courts treat fully litigated constitutional challenges as forfeited and apply plain-error review, the merits are never reached and *Bruen's* historical-tradition test is never applied. The result is not merely an incorrect outcome in an individual prosecution; it is a structural avoidance of this Court's precedent. By granting certiorari, this Court can resolve both (i) whether such a preserved constitutional challenge may be relegated to plain-error review, and (ii) whether § 922(g)(1) may constitutionally be enforced, as applied, against a non-dangerous individual absent a founding-era tradition of permanent disarmament.

1. The First Circuit's entire decision incorrectly rested on plain error instead of *de novo* review.

The First Circuit ruled that, "[h]aving thoroughly reviewed the record and the parties' briefs, we conclude that Belin never raised his as-applied Second Amendment challenge to §922(g)(1) below nor has he argued on appeal that is as applied challenge can survive plain error review. Because Belin has forfeited and waived any as-applied challenge to his conviction, which would fall under plain error review in any event, we affirm" (Decision: 1). That conclusion is incorrect.

Belin raised a facial *and* as-applied challenge in the district court. Plain-error review applies only when a defendant fails to preserve a claim. *See* Fed. R. Crim. P. 52(b). A claim is preserved when a party "presses and passes upon" the issue below. The record here shows precisely that.

Defense counsel specifically argued in the district court that *Bruen* applied to everyone--including individuals with prior felony convictions--and thus challenged the constitutionality of § 922(g)(1) as applied to Belin personally.

That is not a generic facial challenge. It is, by definition, an as-applied challenge: counsel argued that *Bruen's* historical-tradition test governs even where the defendant has a prior felony conviction.

That argument directly contests the statute's constitutionality as applied to Belin himself, without regard to how defense counsel designated the constitutional challenge. Once that argument was made and rejected, the issue was properly, and fully, preserved for appeal.

Indeed, the district court said, at the hearing on the motion to dismiss, "the primary issue ... is whether [*Bruen*] applies to" convicted felons like Petitioner (Transcript, August 15, 2024: 3-4). Hence, even the district Court understood this as an as-applied constitutional challenge. This, then, is clearly preserved for appellate review, and should have been reviewed *de novo* on appeal.

The First Circuit's suggestion that the claim was unpreserved collapses the distinction between "not artfully framed" and "not raised." The Supreme Court has repeatedly held that preservation does not require magic words. It requires only that the lower court be fairly alerted to the constitutional objection. Here, it unquestionably was.

The Supreme Court has made clear that an issue is preserved when the party makes the substance of the objection known to the court. *See* Fed. R. Crim. P. 51(b). There is no requirement that counsel anticipate the precise doctrinal framing an appellate court later adopts.

In *Holguin-Hernandez v. United States*, 589 U.S. 169, 140 S. Ct. 762, 206 L. Ed. 2d 95 (2020), this Court rejected an appellate court's application of plain-error review where the defendant had clearly objected to the sentence imposed, even though he did not use particular phrasing. The Court emphasized that preservation turns on whether the lower court was alerted to the legal contention. *Id*. at 170 ("A criminal defendant who wishes a court of appeals to consider a claim that a ruling of a trial court was in error must first make his objection known to the trial-court judge.").

This is because the preservation doctrine is functional, not formalistic. Here, defense counsel invoked *Bruen* and argued that the Second Amendment applied even to individuals with prior felony convictions, such as Petitioner. That argument necessarily challenges the constitutionality of § 922(g)(1) *as it applied to Belin*. The district court

ruled on that issue. The constitutional question was litigated. That ends the preservation inquiry.

Plain-error review is inappropriate where a constitutional motion to dismiss was filed and denied. Plain-error review under Rule 52(b) applies to forfeited errors--not to claims litigated through a motion to dismiss and resolved by the district court.

When a defendant files a pretrial motion challenging the constitutionality of the statute of conviction and the court denies that motion, the issue is preserved for appellate review as a matter of law.

Applying plain-error review in that circumstance improperly shifts the burden from the Government to the defendant and distorts the standard of review.

Under ordinary preservation principles, constitutional rulings on motions to dismiss are reviewed *de novo*. The First Circuit's approach effectively treated *Belin* as though he had remained silent at trial. He did not. He invoked *Bruen*. He argued the Second Amendment protects even those with felony convictions, such as him. The district court rejected that position. That constitutes legal preservation.

The First Circuit's approach improperly collapses as-applied and facial challenges. The Government argued that Belin's as-applied challenge was unpreserved and subject to plain-error review. But that argument misunderstands the nature of as-applied challenges. An as-applied challenge does not require a separate label. It arises when a defendant argues that the statute cannot constitutionally be enforced against him under the governing legal standard. And that is precisely what occurred here.

Belin did not abstractly argue that § 922(g)(1) is unconstitutional in all applications. On the contrary, he argued that, under *Bruen*, the Second Amendment applies to "everyone"--including individuals with prior felony convictions--meaning the statute could not constitutionally be enforced against him. That is an as-applied claim.

The First Circuit's contrary conclusion reflects an overly rigid preservation framework that this Court has repeatedly rejected. Applying plain-error review allowed the First Circuit to avoid fully engaging with *Bruen's* framework and instead dispose of the case on procedural grounds. That approach is inconsistent with this Court's

directive that constitutional questions squarely raised and litigated below be reviewed under ordinary standards.

The preservation doctrine is intended to ensure fairness to the trial court, not to impose rigid semantic requirements. Petitioner invoked *Bruen*, argued that the Second Amendment applies even to individuals with prior felony convictions, and asserted that the Government bore the burden of demonstrating historical tradition. The district court directly addressed and rejected that constitutional claim. That satisfies any reasonable understanding of preservation.

Plain-error review under Federal Rule of Criminal Procedure 52(b) applies only where an error was forfeited by failure to raise it. It does not apply where a defendant files a pretrial motion to dismiss the indictment on constitutional grounds and obtains a ruling. Applying plain-error review in that circumstance improperly shifts the burden away from the Government and dilutes *Bruen's* requirement that the Government justify firearm regulations by historical evidence.

If lower courts may convert fully litigated constitutional challenges into forfeited claims through narrow labeling distinctions between "facial" and "as-applied" arguments, *Bruen's* framework can

be routinely avoided. This Court's intervention is necessary to prevent such procedural circumvention.

2. Because the lower courts are fractured on the constitutionality of §922(g)(1) after *Bruen*, a citizen's Second Amendment rights now depend on where he is prosecuted.

The Courts of Appeals are deeply divided over whether § 922(g)(1) survives *Bruen* when subjected to meaningful historical scrutiny.

The Third Circuit, sitting *en banc* in *Range v. Att'y General*, 69 F.4th 96 (3d Cir. 2023), held that § 922(g)(1) was unconstitutional as applied to a non-violent offender whose prior conviction did not demonstrate dangerousness. The Court concluded that the Government had failed to identify a historical tradition of disarming individuals like Range.

The Sixth Circuit has acknowledged that as-applied challenges are viable and must be evaluated under *Bruen's* framework. But other circuits, including the First Circuit in this case, have effectively upheld § 922(g)(1) categorically or have declined to require a searching historical inquiry.

This divergence is untenable. A fundamental constitutional right cannot mean one thing in Pennsylvania and another in Massachusetts.

The First Circuit's decision below fails to apply *Bruen's* mandatory historical analysis. *Bruen* requires a historical justification. *Bruen* held that, when the Second Amendment's plain text covers conduct, the burden shifts to the Government to show that its regulation is consistent with the Nation's historical tradition of firearm regulation. Possession of a firearm falls within the Amendment's text. The Government therefore bears the burden. Yet the decision below relied on precedent and *dicta* rather than conducting the required historical inquiry.

Heller described certain longstanding prohibitions as "presumptively lawful." But *Bruen* clarified that such dicta do not relieve courts of the obligation to examine historical analogues.

The First Circuit treated that *dicta* as effectively dispositive. That approach conflicts with *Bruen's* directive that courts may not engage in interest balancing or defer to legislative judgments without historical support.

The founding-era history of the United States does not support categorical lifetime disarmament. The Founding generation disarmed individuals who posed threats to public safety--such as rebels or those refusing to swear allegiance.

But there was no categorical, status-based lifetime firearm ban for all felons. Indeed, many founding-era felonies were punishable by death, eliminating the need for civil disarmament. The restoration of civil rights was common.

The concept of permanent civil exclusion from constitutional rights based solely on felony status is a modern development. The first federal prohibition on felon firearm possession was enacted in 1938. That historical gap is dispositive under *Bruen*.

Rahimi confirms that dangerousness is the constitutional touchstone. There, this Court upheld temporary disarmament of an individual subject to a domestic violence restraining order because he had been judicially found to pose a credible threat.

This Court emphasized dangerousness and historical analogues involving surety laws and other measures aimed at individuals who threatened violence.

Section 922(g)(1), by contrast, imposes permanent disarmament without any individualized finding of dangerousness. That distinction is constitutionally significant.

This case is an ideal vehicle for certiorari. The constitutional question is cleanly presented. The issue was raised below. The record is complete. No procedural complications exist. The case turns entirely on a question of constitutional law. This case presents the issue in its purest form.

The issue is of profound national significance. Section 922(g)(1) applies to millions of Americans. It permanently strips them of a fundamental constitutional right. Whether that permanent deprivation is consistent with the Second Amendment is one of the most consequential constitutional questions of this generation.

The conflict among the circuits is concrete and outcome-determinative. The Third Circuit, sitting *en banc*, has held that the Government must satisfy *Bruen's* historical burden in as-applied challenges and has rejected permanent disarmament where the Government failed to identify a sufficient analogue. *Range v. Att'y Gen. United States*, 69 F.4th 96 (3d Cir. 2023)(*en banc*). Other circuits have

upheld § 922(g)(1) categorically or have declined to engage in a meaningful as-applied inquiry, often relying on *Heller* dicta rather than *Bruen's* methodology.

The Second Amendment right to keep and bear arms cannot vary by geography. This case is also an ideal vehicle. The constitutional claim was preserved through a pretrial motion to dismiss, fully litigated, and ruled upon. The issue is purely legal. There are no disputed factual predicates affecting the Second Amendment analysis. The only question is whether *Bruen* and *Rahimi* require historical justification for permanent status-based disarmament.

3. Founding-era history does not support permanent status-based disarmament of all felons.

Bruen requires courts to identify historical analogues that are "relevantly similar" in both the "why" and the "how" of the regulation. *Rahimi*, 144 S. Ct. at 1898. The Government cannot meet that burden here.

Founding-era laws disarmed individuals who were deemed dangerous, disloyal, or actively threatening public safety--such as those refusing to swear allegiance during wartime. Those measures were

typically temporary and tied to individualized judgments regarding threat. They were not categorical lifetime bans imposed solely by virtue of criminal status.

The first federal statute disarming felons was enacted in 1938--nearly 150 years after ratification of the Second Amendment. The modern expansion of § 922(g)(1) is a twentieth-century development. Under *Bruen*, historical novelty weighs heavily against constitutionality.

Rahimi confirms that dangerousness is the constitutional touchstone. There, this Court upheld temporary disarmament because a court had found the defendant posed a credible threat to another's safety. Here, by contrast, Petitioner has never been subject to such a finding. His disarmament is automatic and permanent.

A lifetime ban imposed solely by felony status--without a finding of individualized dangerousness and a founding-era analogue--cannot satisfy *Bruen's* historical-tradition requirement. At minimum, the Government must demonstrate such a tradition. It has not done so.

CONCLUSION

The petition for a writ of certiorari should be granted. This case presents an important and recurring question concerning the scope of the Second Amendment after *New York State Rifle & Pistol Ass'n v. Bruen* and *United States v. Rahimi*: whether the Government may permanently disarm a citizen based solely on felony status without demonstrating a historical tradition supporting such lifetime, categorical disarmament. The decision below deepens a circuit conflict, misapplies this Court's text-and-history framework, and improperly subjected a preserved constitutional challenge to plain-error review. This Court's review is urgently needed to ensure uniform application of the Second Amendment nationwide.

Dated: February 16, 2026
Manhasset, New York

Respectfully Submitted,

/s/ Steven A. Feldman
Steven A. Feldman
Attorney for Petitioner

UNITED STATES
SUPREME COURT

KING BELIN,

Petitioner,

v.

CERTIFICATE OF SERVICE

UNITED STATES OF AMERICA,

Respondent.

I, Steven A. Feldman, affirm under oath that, on February 16, 2026, I served a copy of this Petition for a Writ of Certiorari by United States mail on the United States Attorney for the District of Massachusetts, John Joseph Moakley United States Federal Courthouse, 1 Courthouse Way, Suite 9200, Boston, MA 02210, the Office of the Solicitor General, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530-2203 and on King Belin, 95015-038, Schuylkill FCI, Interstate 81 & 901, W Minersville, PA 17954.

/s/ Steven A. Feldman
Steven A. Feldman

United States Court of Appeals
For the First Circuit

No. 24-1552

UNITED STATES,

Appellee,

v.

KING BELIN,

Defendant, Appellant.

Before

Gelpí, Thompson, and Dunlap,
Circuit Judges.

JUDGMENT
Entered: February 13, 2026

Defendant-Appellant King Belin appeals from his conviction in the United States District Court for the District of Massachusetts for possessing a firearm and ammunition as a felon in violation of 18 U.S.C. § 922(g)(1). On appeal, Belin asserts an as-applied Second Amendment challenge to the constitutionality of § 922(g)(1). Having thoroughly reviewed the record and the parties' briefs, we conclude that Belin never raised his as-applied Second Amendment challenge to § 922(g)(1) below. Nor has he argued on appeal that his as-applied challenge can survive plain error review. Because Belin has forfeited and waived any as-applied challenge to his conviction, which would fail plain error review in any event, we affirm.

Following a traffic stop in which police officers found Belin in possession of a pistol and ammunition, a federal grand jury charged Belin under § 922(g)(1), the felon-in-possession statute. Belin filed a motion to dismiss the indictment in which he expressly stated that he was making a "facial challenge" to § 922(g)(1); specifically, he argued that § 922(g)(1) "is facially unconstitutional" under New York State Rifle & Pistol Ass'n v. Bruen, 597 U.S. 1 (2022). Based on Belin's arguments, the government's opposition treated the challenge as a facial challenge. The district court denied Belin's motion to dismiss, likewise noting that Belin was making a facial challenge. Following a jury trial, Belin was found guilty under § 922(g)(1) and sentenced to fifty-one months of imprisonment followed by three years of supervised release. In this appeal from his conviction, Belin now argues that § 922(g)(1) is unconstitutional under the Second Amendment as applied to him.

Because he only raised a facial challenge below, Belin has forfeited his as-applied challenge on appeal. See United States v. Stevens, 559 U.S. 460, 473 n.3 (2010) (finding no as-applied claim had been preserved where the defendant failed to "adequately develop[] a separate attack on a defined subset of the statute's applications"); United States v. Rivera-Morales, 961 F.3d 1, 12 (1st Cir. 2020) ("When a defendant changes his tune on appeal and advances before the court of appeals a theory different than the one that he advanced before the district court, the new theory is forfeited."). Belin never argued below that § 922(g)(1) is unconstitutional as applied to any subset of felons -- such as nonviolent felons -- much less as applied to himself. His written submissions clearly set forth only a facial challenge. Further, Belin's assertion at the motion to dismiss hearing that Bruen applies to all Americans, including those with a criminal record, simply described the scope of the Second Amendment; fairly read, it was not an assertion that a particular subset of § 922(g)(1)'s applications were unconstitutional.

Having forfeited his as-applied challenge, Belin's claim would ordinarily be reviewed for plain error on appeal. United States v. Sansone, 90 F.4th 1, 6 (1st Cir. 2024); Rivera-Morales, 961 F.3d at 12. But Belin's brief makes no attempt to show that his claim satisfies the plain error standard, even as an alternative argument. He does mention the plain error standard, but only in asserting that our review of his claim should be de novo rather than for plain error. By making no attempt to show that his claim satisfies plain error review, Belin has waived his as-applied challenge. United States v. Martínez-Mercado, 132 F.4th 61, 68–69 (1st Cir.), cert. denied, No. 24-7461, 2025 WL 3506989 (U.S. Dec. 8, 2025); United States v. Cruz-Ramos, 987 F.3d 27, 40 (1st Cir. 2021). Belin's claim must fail for this reason.

Even if we overlooked the waiver, however, Belin's as-applied challenge would fail plain error review. To be plain, an error must be "indisputable." United States v. Correa-Osorio, 784 F.3d 11, 22 (1st Cir. 2015) (quoting United States v. Jones, 748 F.3d 64, 70 (1st Cir. 2014)). Belin has not shown that § 922(g)(1) is obviously unconstitutional as applied to him under binding on-point precedent; nor has he shown that any other legal authority compels a finding that his as-applied challenge to § 922(g)(1) must succeed. See United States v. Langston, 110 F.4th 408, 419 (1st Cir. 2024). Neither the Supreme Court nor the First Circuit has held that § 922(g)(1) is unconstitutional either in any of its applications or as applied to an individual with Belin's prior convictions. See id. Further, no legal authority compels the conclusion that § 922(g)(1) is unconstitutional as applied to Belin. See id. at 419–20 (noting that the Supreme Court, in dicta, has consistently reiterated the "presumptive lawfulness of the felon-in-possession statute," thus contradicting arguments that the Supreme Court's Second Amendment precedent "compels" a finding that § 922(g)(1) has unconstitutional applications). Finally, it is not "clear and obvious" that Belin falls within a category of felons with only nonviolent prior convictions. Cf. id. at 420. In addition to prior convictions for prohibited firearm possession, Belin also has prior convictions for assault and battery on a police officer, resisting arrest, possession of crack cocaine, and operating under the influence, among others.

For the foregoing reasons, Belin's conviction under § 922(g)(1) is **affirmed**.

By the Court:

Anastasia Dubrovsky, Clerk

cc: Carol Elisabeth Head, Timothy E. Moran, Donald Campbell Lockhart, Alexia R. De Vincentis, Benjamin Tolkoff, John Thomas Dawley Jr., Steven Alan Feldman, King Belin

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CRIMINAL ACTION NO. 21-CR-10040-RWZ

UNITED STATES OF AMERICA, Plaintiff

v.

KING BELIN, Defendant

MEMORANDUM & ORDER

March 2, 2023

ZOBEL, S.D.J.

Defendant, King Belin was charged with knowingly possessing a firearm and ammunition after having been convicted of a crime punishable by imprisonment for a term exceeding one year, in violation of 18 U.S.C. § 922(g)(1). Docket # 1. He moves to dismiss the indictment on the ground that § 922(g)(1) is facially unconstitutional. Docket # 58. The motion is denied.

"A facial challenge to a legislative Act is, of course, the most difficult challenge to mount successfully, since the challenger must establish that no set of circumstances exists under which the Act would be valid." United States v. Salerno, 481 U.S. 739, 745 (1987). Defendant asserts that the felon in possession statute is facially unconstitutional based on the framework announced in New York State Rifle & Pistol Ass'n, Inc. v. Bruen, which requires a statute that implicates the Second Amendment to comport with historical tradition. See 142 S. Ct. 2111, 2130-31, 2136 (2022).

The controlling Supreme Court and First Circuit precedent prior to the Bruen decision is clear that the Second Amendment protects "law-abiding, responsible citizens," and that "nothing [] should be taken to cast doubt on longstanding prohibitions on the

possession of firearms by felons." D.C. v. Heller, 554 U.S. 570, 626, 635 (2008); McDonald v. City of Chicago, Ill., 561 U.S. 742, 786 (2010) ("We made it clear in Heller that our holding did not cast doubt on such longstanding regulatory measures as 'prohibitions on the possession of firearms by felons'"); United States v. Torres-Rosario, 658 F.3d 110, 112–13 (1st Cir. 2011) (internal citations omitted) (affirming conviction under 18 U.S.C. § 922(g)(1) and noting that "[a]ll of the circuits to face the issue post Heller have rejected blanket challenges to felon in possession laws").

Bruen did not disrupt the prior controlling caselaw. Instead, it explicitly stated that its holding is "consistent with Heller and McDonald," which recognized that the Second Amendment protects the rights of "ordinary, law-abiding citizens." See Bruen, 142 S. Ct. at 2122; see also id. at 2157 (Alito, J., concurring) (internal citation omitted) ("Nor have we disturbed anything that we said in Heller or McDonald v. Chicago about restrictions that may be imposed on the possession or carrying of guns."). Justice Kavanaugh's concurrence, which was joined by Chief Justice Roberts, explicitly acknowledged that the "longstanding" felon in possession statute is constitutional. See id. at 2162 ("[p]roperly interpreted, the Second Amendment allows a 'variety' of gun regulations," including "longstanding prohibitions on the possession of firearms by felons").

Similarly, the First Circuit's rejection of a constitutional challenge to § 922(g)(1) remains controlling precedent. See Torres-Rosario, 658 F.3d at 112-13; see also United States v. Rene E., 583 F.3d 8, 12 (upholding constitutionality of § 922(x)(2) while noting that Heller "left intact" laws "prohibiting the possession of firearms by felons"); United States v. Booker, 644 F.3d 12, 23 (1st Cir. 2011) (finding § 922(g)(9) constitutional and clarifying that "the Second Amendment permits categorical regulation of gun possession

by classes of persons—e.g., felons"). Because Bruen did not "unmistakably [] cast [those decisions] into disrepute," the precedent controls. See Eulitt v. Me. Dep't of Educ., 386 F.3d 344, 349 (1st Cir. 2004) ("Until a court of appeals revokes a binding precedent, a district court within the circuit is hard put to ignore that precedent unless it has unmistakably been cast into disrepute by supervening authority."), rev'd on other grounds, 142 S. Ct. 1987 (2022).

Even when analyzed in accordance with the Bruen framework, § 922(g)(1) withstands Defendant's constitutional challenge. First, the activity regulated by the felon in possession statute falls outside the scope of the Second Amendment's protections because it does not impact "law-abiding, responsible citizens." See Bruen, 142 S. Ct. at 2122, 2129; Heller, 554 U.S. at 635. Second, even if Defendant could demonstrate that the Second Amendment applied to felons, tradition and history in the eighteenth century were consistent with felon disarmament. See e.g., Medina v. Whitaker, 913 F.3d 152, 158 (D.C. Cir. 2019) (observing that in the late eighteenth century, felonies were punishable by death and therefore "it is difficult to conclude that the public, in 1791, would have understood someone facing death [] to be within the scope of those entitled to possess arms"); United States of Am. v. Riley, No. 1:22-CR-163 (RDA), 2022 WL 7610264, at *13 (E.D. Va. Oct. 13, 2022) (reviewing historical scholarship and concluding that "felon in possession prohibition laws are consistent with the Founders' understanding of the Second Amendment at ratification").

Defendant's motion to dismiss (Docket # 58) is DENIED.

March 2, 2023
DATE

RYA W. ZOBEL
UNITED STATES DISTRICT JUDGE