
NO. _____

IN THE

Supreme Court of the United States

_____ TERM, 20__

DYLAN JERELLE PETTYJOHN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Eighth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether, as the Eighth Circuit has held, 18 U.S.C. § 922(g)(1) (which prohibits any felon from possessing firearms) is facially constitutional?

PARTIES TO THE PROCEEDINGS

The caption contains the names of all parties to the proceedings.

DIRECTLY RELATED PROCEEDINGS

This case arises from the following proceedings in the United States District Court for the Southern District of Iowa and the United States Court of Appeals for the Eighth Circuit:

United States v. Pettyjohn, 4:23-CR-00086-001, (S.D. Iowa) (criminal proceedings) judgment entered October 17, 2024.

United States v. Pettyjohn, 24-3168 (8th Cir.) (direct criminal appeal), judgment and opinion entered December 10, 2025.

There are no other proceedings in state or federal trial or appellate courts, or in this Court directly related to this case.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Dylan Pettyjohn respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eighth Circuit.

OPINIONS BELOW

The Eighth Circuit's published opinion in Pettyjohn's case is available at 161 F.4th 535 and is reproduced in the appendix to this petition at Pet. App. p. 10.

JURISDICTION

The Eighth Circuit entered judgment in Pettyjohn's case on December 10, 2025. Pet. App. p. 17. The Court has jurisdiction over this case under 28 U.S.C. § 1254(1).

RELEVANT STATUTORY AND CONSTITUTIONAL PROVISIONS

18 U.S.C. § 922(g)(1)

(g) It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

U.S. CONST. AMEND. II

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.

STATEMENT OF THE CASE

A. Introduction

In *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, this Court reiterated that “[t]he constitutional right to bear arms in public for self-defense is not ‘a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees.’” *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 70 (2022) (quoting *McDonald v. City of Chicago, Ill.*, 561 U.S. 742, 780 (plurality opinion) (2010)). Under *Bruen*, lower courts were instructed to first turn to the plain text of the Second Amendment to determine whether it protects the regulated conduct. *Id.* at 17. And if it does, then courts must only affirm the regulation if it is “consistent with this Nation’s historical tradition of firearm regulation.” *Id.*

Bruen left lower courts to apply this framework to firearms regulations, including Congress’s limits on firearm possession in 18 U.S.C. § 922(g). The Eighth Circuit, for its part, outright rejected both facial and as-applied challenges to prosecutions for felons in possession of a firearm under 18 U.S.C. § 922(g)(1). *United States v. Jackson*, 69 F.4th 495, 501–02 (8th Cir. 2023) (*Jackson I*).

This Court then decided *United States v. Rahimi*, 602 U.S. 680 (2024) and granted, vacated, and remanded several Eighth Circuit cases involving Second Amendment challenges to § 922(g)(1), including *Jackson I*. Without any additional briefing or arguments, the Eighth Circuit issued *United States v. Jackson*, 110 F.4th

1120 (8th Cir. 2024) (*Jackson II*), and held that *Rahimi* did not change its prior holding, *id.* at 1122.

The Fourth Circuit and Eleventh Circuits have joined the Eighth Circuit in categorically foreclosing all facial and as-applied Second Amendment challenges to § 922(g)(1). *United States v. Dubois*, 139 F.4th 887 (11th Cir. 2025); *United States v. Hunt*, 123 F.4th 697 (4th Cir. 2024). The Third, Fifth, and Sixth Circuits, on the other hand, remain open to as-applied challenges as to whether a prosecution for felon in possession violates a defendant's Second Amendment rights. *United States v. Moore*, 111 F.4th 266 (3d Cir. 2024); *United States v. Diaz*, 116 F.4th 458 (5th Cir. 2024); *United States v. Williams*, 113 F.4th 637 (6th Cir. 2024).

This Court should grant certiorari to resolve this circuit split and correct the Eighth Circuit's unduly limited view of Second Amendment rights for individuals with felony convictions.

B. Proceedings below

On June 13, 2023, a grand jury returned an Indictment against Pettyjohn charging him with possessing with intent to distribute 50 grams or more of methamphetamine, carrying a firearm during and in relation to a drug trafficking crime, and possessing a firearm as a felon. R. Doc. 2. On December 8, 2023, Pettyjohn moved to dismiss the felon in possession count, arguing that 18 U.S.C. § 922(g)(1) is unconstitutional on its face and as applied to him under the Second Amendment. R. Doc. 23. The district court denied Pettyjohn's motion to dismiss. R. Doc. 29.

On April 17, 2024, the grand jury returned a Superseding Indictment charging Pettyjohn with possession with intent to distribute 50 grams or more of methamphetamine, possession with intent to distribute a mixture and substance containing fentanyl, carrying a firearm during and in relation to a drug trafficking crime, and being a felon in possession of a firearm. R. Doc. 42. Pettyjohn pled not guilty to each count, and was found guilty of all counts on June 3, 2024, after a jury trial. R. Docs. 68 & 71. Pettyjohn moved for a judgment of acquittal, and, in the alternative, for a new trial, based on the insufficiency of the evidence for the drug-related counts and based on the Second Amendment for the felon in possession count, which the district court denied. R. Doc. 71. Pettyjohn, who was in possession of less than \$1,000 worth of drugs, was sentenced to 300 months' imprisonment, which included 120 months for being a felon in possession of a firearm. R. Doc. 112.

Mr. Pettyjohn appealed the sufficiency of the evidence and an evidentiary ruling on the drug-trafficking counts, and the Eighth Circuit affirmed. *See United States v. Pettyjohn*, 161 F.4th 535, 537–39 (8th Cir. 2025). He also appealed the district court's denial of his motion to dismiss the felon in possession charge, arguing that § 922(g)(1) is unconstitutional on its face and as applied to his case. *See id.* at 540. In his brief before the Eighth Circuit, Mr. Pettyjohn acknowledged that the Eighth Circuit's precedents foreclosed him from succeeding on his Second Amendment challenge. *Id.* The Eighth Circuit affirmed the constitutionality of his conviction under § 922(g)(1). *Id.* Mr. Pettyjohn now petitions this court for review of his constitutional challenge

and seeks this Court’s revision of the Eighth Circuit’s unduly limited view of the Second Amendment.

REASONS FOR GRANTING THE WRIT

I. **The Eighth Circuit’s ruling foreclosing all Second Amendment challenges is inconsistent with this Court’s precedents.**

Bruen gave lower courts a two-step framework for evaluating the constitutionality of firearm regulations. Under the first step, “when the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct.” 597 U.S. at 17. This includes “an individual’s right to carry a handgun for self-defense outside the home.” *Id.* at 32.

If the first step is satisfied, then courts move to step two, and the “government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation.” *Id.* at 24. This requires the government to produce a “representative historical analogue, not a historical twin.” *Id.* at 30.

The Eighth Circuit’s approach unduly limits the Second Amendment right. In interpreting the first step, *Jackson II* held that the conduct under 18 U.S.C. § 922(g)(1) is not eligible for individualized review because the Second Amendment only protects law-abiding citizens. Under step two, *Jackson II* found there was a sufficient historical analogue because Congress had historically prohibited certain groups from possessing firearms and indicated that all convicted felons are dangerous persons.

The Eighth Circuit’s approach under each step is inconsistent with Supreme Court precedent, and this Court should grant certiorari to address it.

A. The Eighth Circuit’s precedent ignores *Bruen*’s instruction to analyze whether the regulated conduct is protected and *Rahimi*’s edict not to rely on dicta referencing “responsible” citizens as a sufficient reason to limit Second Amendment rights.

In *Bruen*, this Court directed lower courts to analyze whether the conduct the government was regulating was protected. But the Eighth Circuit’s decision did not even weigh the conduct prohibited by 18 U.S.C. § 922(g)(1), instead holding that the Second Amendment categorically do not *any* receive Second Amendment protection. *Jackson II*, 110 F.4th 1125-29. This faulty reasoning relied on dicta from *Heller* stating that the Second Amendment only protects “law-abiding citizens,” even though “[t]he constitutionality of felon dispossession was not before the Court in *Heller*.” *Kanter v. Barr*, 919 F.3d 437, 453 (7th Cir. 2019) (Barrett, J., dissenting). The Eighth Circuit’s rule thus ignores this Court’s direction to analyze as a first step whether the regulated conduct is within the plain text of the Second Amendment.

The Eighth Circuit’s precedent also ignores *Rahimi*. There, the Government argued that § 922(g)(8)(C)(i) passed constitutional muster because the Second Amendment “protects only law-abiding, responsible citizens.” Gov’t Br. 12, *United States v. Rahimi*, No. 22-915 (U.S. Aug. 14, 2023). The government’s argument cited several references to the phrase “law-abiding, responsible citizens” in *Heller* and *Bruen*, reasoning that the Supreme Court’s “precedents recognize that Congress may disarm persons who are not law-abiding, responsible citizens.” *Id.* at 12.

But the Court has already rejected that argument. *See Rahimi*, 602 U.S. at 701-02; *See also id.* at 772 (Thomas, J., dissenting) (“The Government . . . argues that the Second Amendment allows Congress to disarm anyone who is not ‘responsible’ and ‘law-abiding.’ Not a single Member of the Court adopts the Government’s theory.”). This Court has thus been clear that drawing broad, vague categories is an inappropriate Second Amendment analysis.

The Second Amendment right to bear arms “belongs to all Americans.” *District of Columbia v. Heller*, 554 U.S. 570, 581 (2008). Without the proper robust historical analysis that this Court requires to conclude otherwise, this presumptively includes individuals with felony convictions. Lower courts will continue to rely on the “law abiding” dicta to categorically forbid broad categories of persons from accessing their Second Amendment rights until this Court intervenes.

B. The Eighth Circuit’s precedent fails to point to a sufficient historical analogue to justify categorically stripping a broad category of Americans of their Second Amendment rights.

The Eighth Circuit’s analysis also falls short on step two of the *Bruen* framework. Under step two, “the government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *Bruen*, 597. This requires courts to “ascertain whether the new law is ‘relevantly similar’ to laws that our tradition is understood to permit, ‘applying faithfully the balance struck by the founding generation to modern circumstances.’” *Rahimi*, 602 U.S. at 692 (quoting *Bruen*, 597 U.S., at 29) (cleaned up). When weighing whether a

historical analogue is “relevantly similar under the Second Amendment,” *Bruen* directed courts to consider the metrics of “how and why the regulations burden a law-abiding citizen's right to armed self-defense.” 597 U.S. at 29. The “central considerations” to an “analogical inquiry” are thus “whether modern and historical regulations impose a comparable burden on the right of armed self-defense and whether that burden is comparably justified.” *Id.* (quoting *McDonald*, 561 U.S. at 767).

Yet in *Jackson II*, the Eighth Circuit failed to point to any particular laws that were “relatively similar” to § 922(g)(1). For example, in *Rahimi*, this Court analyzed the historical tradition of surety and going armed laws and found such laws sufficiently analogic to § 922(g)(8)(C)(i)’s prohibition on firearm possession for individuals found by court order to be a credible threat to the physical safety of an intimate partner or child. *Rahimi*, 602 U.S. at 698-99. Section 922(g)(8)(C)(i), like surety and going armed laws, though, is “individualized,” *id.* at 695, and “of limited duration,” *id.* Section 922(g)(1), in contrast, does not require any sort of individualized finding of threat or danger to disarm an individual. Instead, it categorically disarms a class of persons.

The Eighth Circuit generally pointing to vague historical analogues in statutes that disarm dangerous people does not cut it. It ignores Justice Barrett’s admonition that “a court must be careful not to read a principle at such a high level of generality” and thereby “waters down the right” to keep and bear arms. *Id.* at

720 (Barrett, J., concurring). This Court should grant certiorari to address this issue and require the Eighth Circuit to engage in the fulsome historical analysis required by *Bruen* and *Rahimi*.

II. Pettyjohn’s case is a satisfactory vehicle to address this common issue.

Pettyjohn’s case is a proper vehicle for review of the Eighth Circuit’s faulty precedent. He preserved the issue at the district court with a motion to dismiss, R. Doc. 23, and at the Eighth Circuit, see *Pettyjohn*, 161 F.4th at 537–39.

CONCLUSION

Under a proper reading of this Court’s precedents, Pettyjohn’s prior felony convictions do not alone, without an individualized determination, justify removing him—for the rest of his life—from “the people” guaranteed protection by the Second Amendment. Pettyjohn thus respectfully requests this Court grant certiorari, declare § 922(g)(1) unconstitutional, and overturn his conviction on this count.

RESPECTFULLY SUBMITTED,

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