APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
vs.	)	**Criminal Action No. 23-00143-JB-MU**
	)	
RAHEEM MORRISSETTE,	)	
	)	
Defendant.	)	

ORDER

This action is before the Court on Defendant Raheem Morrissette's *Bruen*-Based Motion to Dismiss. (Doc. 14). The United States has filed a response (Doc. 19) and this matter is ripe for review.

BACKGROUND

The Indictment in this case alleges Mr. Morrissette possessed a firearm as a convicted felon in contravention of 18 U.S.C. § 922(g)(1). (Doc. 1). Section 922 (g)(1) prohibits possession of a firearm by anyone who has been convicted of a crime punishable by imprisonment for more than one (1) year. Previously, Mr. Morrissette had been convicted of Burglary in the Third Degree (CC-2013-003791), Possession of Marijuana in the First Degree (CC-2013-004576), Burglary in the Third Degree (CC-2014-002300), and Criminal Mischief in the First Degree (CC-2016-002628), all crimes punishable by imprisonment for a term exceeding one (1) year. (Doc. 1). Mr. Morrissette filed a *Bruen*-based motion to dismiss asserting that 18 U.S.C. § 924(c) and 18 U.S.C. § 922(g)(1) are unconstitutional under the Second Amendment. (*See* Doc. 14).

ANALYSIS

Relying primarily upon the decisions in *New York State Rifle & Pistol Ass'n v. Bruen*, -— U.S. —, 142 S. Ct. 2111, 213 L.Ed.2d 387 (2022), which established a new two-step method for evaluating the constitutionality of firearm regulations, Mr. Morrissette argues that 18 U.S.C. § 922(g)(1) is unconstitutional, facially and as applied to him, because the statute violates the Second Amendment to the United States' Constitution.

However, in *United States v. Rozier*, 598 F. 3d 768 (11th Cir. 2010), the Eleventh Circuit rejected a Second Amendment challenge to 18 U.S.C. § 922(g)(1). *Rozier* remains binding precedent in this circuit. And as stated in *United States v. Hunter*, --- F. Supp. 3d. ---, 2022 WL 17640254. *1 (N.D. Ala. 2022), "[t]he question facing this court today is whether *Rozier* is still good law in light of the Supreme Court's recent ruling in [*Bruen*]. After careful review, the court concludes that it is. Because *Rozier* has not been clearly overruled or undermined to the point of abrogation, this court is bound by that decision's holding that § 922(g)(1) does not violate the Second Amendment."

Moreover, by reaffirming and adhering to its reasoning in *District of Columbia v. Heller*, 554 U.S. 570, 128 S. Ct. 2783, 171 L.Ed.2d 637 (2008) and *McDonald v. City of Chicago, Il*., 561 U.S. 742, 130 S. Ct. 3020, 177 L.Ed.2d 387 (2010), the Supreme Court in *New York State Rifle & Pistol Ass'n v. Bruen*, did not change the regulatory framework that prohibits felons from possessing firearms. This Court will not depart from this established framework.

CONCLUSION

Upon consideration, and for the reasons set forth herein, the Motion is DENIED.

DONE and ORDERED this 16th day of October, 2023.

/s/ JEFFREY U. BEAVERSTOCK
CHIEF UNITED STATES DISTRICT JUDGE

[DO NOT PUBLISH]

In the

United States Court of Appeals

For the Eleventh Circuit

No. 24-10353

Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAHEEM MORRISSETTE,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Alabama
D.C. Docket No. 1:23-cr-00143-JB-MU-1

Before JILL PRYOR, NEWSOM, and GRANT, Circuit Judges.

PER CURIAM:

Raheem Morrissette appeals his conviction for possessing a firearm as a felon, in violation of 18 U.S.C. § 922(g)(1). He challenges the constitutionality of § 922(g)(1)'s prohibition on the possession of firearms by felons. After careful consideration, we affirm.

I.

A police officer observed a vehicle driven by Morrissette commit a traffic infraction and initiated a traffic stop. During the stop, the officer smelled marijuana coming from the vehicle. He searched the vehicle and found not only marijuana but also a pistol.

Morrissette, who had previous felony convictions, was charged with one count of possessing a firearm as a convicted felon. *See* 18 U.S.C. § 922(g)(1). He initially pleaded not guilty and filed a motion to dismiss the indictment, arguing that the statutory ban on felons possessing firearms violated the Second Amendment. After the district court denied the motion to dismiss, Morrissette pleaded guilty. The district court ultimately imposed a 57-month sentence. This is Morrissette's appeal.

II.

Ordinarily, when a defendant enters a valid guilty plea, he waives any non-jurisdictional defects in the proceedings. *United States v. Brown*, 752 F.3d 1344, 1347 (11th Cir. 2014). But Morrissette's guilty plea did not waive his constitutional challenge to the

statutory prohibition on felons' possession of firearms. *See Class v. United States*, 583 U.S. 174, 181 (2018) (holding that a defendant who pleaded guilty did not waive his Second Amendment challenge to a statute of conviction when the claim did not "contradict the terms of the indictment or the written plea agreement").

We review *de novo* the constitutionality of a statute. *United States v. Gruezo*, 66 F.4th 1284, 1292 (11th Cir. 2023).

III.

Morrissette challenges the constitutionality of 18 U.S.C. § 922(g)(1), which generally prohibits individuals with felony convictions from possessing firearms. According to Morrissette, this prohibition, both on its face and as applied to him, runs afoul of the Second Amendment.

To assess the constitutionality of the prohibition on felons possessing firearms, we begin with the Supreme Court's decision in *District of Columbia v. Heller*, 554 U.S. 570 (2008). In *Heller*, the Court considered a Second Amendment challenge to a District of Columbia law that barred the private possession of handguns in homes. *Id.* at 635. After considering both the text and history of the Second Amendment, the Court concluded that it conferred on an individual a right to keep and bear arms. *Id.* at 595. The Court ultimately held that the ban on handgun possession in the home violated the Second Amendment. *Id.* at 635. But the Court acknowledged that the right to keep and bear arms was "not unlimited," emphasizing that "nothing in [its] opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms

by felons and the mentally ill." *Id.* at 626. Indeed, the Court labeled such restrictions as "presumptively lawful." *Id.* at 627 n.26.

After *Heller*, we considered a constitutional challenge to § 922(g)(1)'s prohibition on felons' possession of firearms. *See United States v. Rozier*, 598 F.3d 768, 770 (11th Cir. 2010). We held that "statutes disqualifying felons from possessing a firearm under any and all circumstances do not offend the Second Amendment." *Id.* at 771.

Several years later, the Supreme Court considered a Second Amendment challenge to New York's gun-licensing regime that limited when a law-abiding citizen could obtain a license to carry a firearm outside the home. *See N.Y. State Rifle & Pistol Ass'n v. Bruen* 597 U.S. 1, 11 (2022). The Court recognized that "the Second and Fourteenth Amendments protect an individual's right to carry a handgun for self-defense outside the home." *Id.* at 10. The Court explained that to determine whether a restriction on the possession of firearms was constitutional, a court must begin by asking whether the firearm regulation at issue governs conduct that falls within the plain text of the Second Amendment. *Id.* at 17. If the regulation covers such conduct, the court may uphold it only if the government "affirmatively prove[s] that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms." *Id.* at 19. *Bruen* emphasized that *Heller* established the correct test for determining the constitutionality of gun restrictions. *See id.* at 39. And, like *Heller*, *Bruen* described

Second Amendment rights as extending only to "law-abiding, responsible citizens." *Id.* at 26 (internal quotation marks omitted).

Based on *Bruen*, Morrissette challenges § 922(g)(1)'s prohibition on the possession of firearms by felons, arguing that the government failed to carry its burden to demonstrate that felon disenfranchisement is "consistent with the Nation's historical tradition of firearm regulation." Appellant's Br. 9. This argument is foreclosed by precedent.

After *Bruen*, we considered another Second Amendment challenge to § 922(g)(1). *See United States v. Dubois*, 94 F.4th 1284, 1289 (11th Cir. 2024). We held that the challenge was foreclosed by *Rozier*, which "interpreted *Heller* as limiting the [Second Amendment] right to law-abiding and qualified individuals and as clearly excluding felons from those categories by referring to felon-in-possession bans as presumptively lawful." *Id.* at 1293 (internal quotation marks omitted). Although the defendant argued that *Bruen* abrogated our decision in *Rozier*, we observed that even in *Bruen* the Supreme Court continued to describe the right to bear arms as extending only to "law-abiding, responsible citizens." *Id.* (internal quotation marks omitted). We thus concluded that *Bruen* did not abrogate *Rozier*. Because *Rozier* foreclosed a Second Amendment challenge to § 922(g)(1), we affirmed the defendant's conviction. *Id.*

The Supreme Court's recent decision in *United States v. Rahimi*, 144 S. Ct. 1889 (2024), does not change our analysis. In *Rahimi*, the Court considered a Second Amendment challenge to the federal statute that prohibits an individual who is subject to a

domestic violence restraining order from possessing a firearm when the order includes a finding that he represents a credible threat to the safety of an intimate partner or a child of that partner or individual. *See id.* at 1898 (citing 18 U.S.C. § 922(g)(8)). It held that this firearm restriction was constitutional. And it once again declared that the prohibition on "the possession of firearms by 'felons' . . . [is] 'presumptively lawful.'" *Id.* at 1902 (quoting *Heller*, 554 U.S. at 626, 627 n.26).

Rahimi does not displace our holding in *Dubois* that *Bruen* did not abrogate *Rozier*. Under our prior panel precedent rule, an "intervening Supreme Court decision abrogates our precedent only if the intervening decision is both clearly on point and clearly contrary to our earlier decision." *Dubois*, 94 F.4th at 1293 (internal quotation marks omitted). "If the Supreme Court never discussed our precedent and did not otherwise comment on the precise issue before the prior panel, our precedent remains binding." *Id.* (alteration adopted) (internal quotation marks omitted). *Rahimi* did not involve § 922(g)(1) nor did it otherwise comment on the precise issue before us in *Rozier*. Moreover, in *Rahimi*, the Supreme Court once again reiterated, albeit in dicta, that the prohibition "on the possession of firearms by felons . . . [is] presumptively lawful," which greatly undermines Morrissette's position. 144 S. Ct. at 1902 (internal quotation marks omitted).

Under our precedent, Morrissette's Second Amendment challenge to § 922(g)(1) fails. Accordingly, we affirm his conviction.

AFFIRMED.

NOT FOR PUBLICATION

In the

United States Court of Appeals

For the Eleventh Circuit

No. 24-10353

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAHEEM MORRISSETTE,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Alabama
D.C. Docket No. 1:23-cr-00143-JB-MU-1

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before JILL PRYOR, NEWSOM, and GRANT, Circuit Judges.

PER CURIAM:

Raheem Morrissette appeals his conviction for possession of a firearm as a felon, in violation of 18 U.S.C. § 922(g)(1). He argues that § 922(g)(1) is unconstitutional, both on its face and as applied to him. After we affirmed his conviction, the Supreme Court vacated our decision and remanded the case for further consideration in light of its decision in *United States v. Rahimi*, 602 U.S. 680 (2024). *See United States v. Morrissette*, No. 24-10353, 2024 WL 4709935 (11th Cir. Nov. 7, 2024) (unpublished), *vacated*, 145 S. Ct. 1468 (2025). After further consideration, we affirm Morrissette's conviction.

I.

This case arises out of an incident in which a police officer saw Morrissette commit a traffic infraction while driving and initiated a traffic stop. During the stop, the officer smelled marijuana coming from the vehicle. He searched the vehicle and found marijuana and a pistol.

Morrissette, who had previous felony convictions, was charged with one count of possessing a firearm as a convicted felon. *See* 18 U.S.C. § 922(g)(1). He initially pleaded not guilty and filed a motion to dismiss the indictment, arguing that the statutory ban on felons possessing firearms violated the Second Amendment. After the district court denied the motion to dismiss, Morrissette pleaded guilty. The district court ultimately imposed a 57-month sentence.

II.

Ordinarily, when a defendant enters a valid guilty plea, he waives any non-jurisdictional defects in the proceedings. *United States v. Brown*, 752 F.3d 1344, 1347 (11th Cir. 2014). But Morrissette's guilty plea did not waive his constitutional challenge to the statutory prohibition on felons' possession of firearms. *See Class v. United States*, 583 U.S. 174, 181 (2018) (holding that a defendant who pleaded guilty did not waive his Second Amendment challenge to a statute of conviction when the claim did not "contradict the terms of the indictment or the written plea agreement").

We review *de novo* the constitutionality of a statute. *United States v. Gruezo*, 66 F.4th 1284, 1292 (11th Cir. 2023).

III.

Morrissette challenges as unconstitutional 18 U.S.C. § 922(g)(1), which generally prohibits individuals with felony convictions from possessing firearms. According to Morrissette, this prohibition, both on its face and as applied to him, runs afoul of the Second Amendment.

To assess the constitutionality of the prohibition on felons possessing firearms, we begin with the Supreme Court's decision in *District of Columbia v. Heller*, 554 U.S. 570 (2008). In *Heller*, the Court considered a Second Amendment challenge to a District of Columbia law that barred the private possession of handguns in homes. *Id.* at 635. After considering both the text and history of the Second Amendment, the Court concluded that it conferred on an individual a right to keep and bear arms. *Id.* at 595. The Court held

that the ban on handgun possession in the home violated the Second Amendment. *Id.* at 635. But the Court acknowledged that the right to keep and bear arms was "not unlimited," emphasizing that "nothing in [its] opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill." *Id.* at 626. Indeed, the Court labeled such restrictions as "presumptively lawful." *Id.* at 627 n.26.

After *Heller*, we considered a constitutional challenge to § 922(g)(1)'s prohibition on felons' possession of firearms. *See United States v. Rozier*, 598 F.3d 768 (11th Cir. 2010). We explained that "the first question to be asked" under *Heller* "is whether one is qualified to possess a firearm" and noted that a convicted felon's Second Amendment right to bear arms "is not weighed in the same manner as that of a law-abiding citizen." *Id.* at 770–71 (emphasis omitted). We looked to the Supreme Court's statement in *Heller* that prohibiting felons from possessing firearms was a "presumptively lawful longstanding prohibition." *Id.* at 771 (citation modified). This language "suggest[ed] that statutes disqualifying felons from possessing a firearm under any and all circumstances do not offend the Second Amendment." *Id.* We thus concluded that § 922(g)(1) was a "constitutional avenue to restrict the Second Amendment right of certain classes of people," including those with felony convictions. *Id.*

Several years later, the Supreme Court considered a Second Amendment challenge to New York's gun-licensing regime that limited when a law-abiding citizen could obtain a license to carry a

firearm outside the home. *See N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 11 (2022). The Court recognized that "the Second and Fourteenth Amendments protect an individual's right to carry a handgun for self-defense outside the home." *Id.* at 10. It explained that to determine whether a restriction on the possession of firearms was constitutional, a court must begin by asking whether the restriction at issue governs conduct that falls within the plain text of the Second Amendment. *Id.* at 17. If the restriction covers such conduct, the court may uphold it only if the government "affirmatively prove[s] that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms." *Id.* at 19. *Bruen* emphasized that *Heller* established the correct test for determining the constitutionality of gun restrictions. *See id.* at 26. And, like *Heller*, *Bruen* described Second Amendment rights as extending to "law-abiding, responsible citizens." *Id.* (citation modified).

After *Bruen*, we considered another Second Amendment challenge to § 922(g)(1). *See United States v. Dubois* (*Dubois I*), 94 F.4th 1284 (11th Cir. 2024), *vacated*, *Dubois v. United States* (*Dubois II*), 145 S. Ct. 1041 (2025), *reinstated by*, *United States v. Dubois* (*Dubois III*), 139 F.4th 887 (11th Cir. 2025). In *Dubois I*, we held that a defendant's Second Amendment challenge was foreclosed by *Rozier*, which "interpreted *Heller* as limiting the [Second Amendment] right to law-abiding and qualified individuals and as clearly excluding felons from those categories by referring to felon-in-possession bans as presumptively lawful." *Id.* at 1293 (citation modified). We rejected the defendant's argument that *Bruen* abrogated

our decision in *Rozier*. *Id.* We explained that in *Bruen* the Supreme Court continued to describe the right to bear arms "as extending only to law-abiding, responsible citizens." *Id.* (citation modified). We stated that "clearer instruction from the Supreme Court" was needed before we could reconsider § 922(g)(1)'s constitutionality. *Id.* Accordingly, we held that we remained bound by *Rozier*. *Id.*

In *Rahimi*, the Supreme Court considered a Second Amendment challenge to a federal statute prohibiting an individual who is subject to a domestic violence restraining order from possessing a firearm when the order includes a finding that the individual represents a credible threat to the safety of an intimate partner or a child of that partner or individual. *See* 602 U.S. at 684–85, 693 (citing 18 U.S.C. § 922(g)(8)). It held that this restriction was constitutional. And it once again declared that the prohibition on "the possession of firearms by 'felons' . . . [is] 'presumptively lawful.'" *Id.* at 699 (quoting *Heller*, 554 U.S. at 626, 627 n.26).

After deciding *Rahimi*, the Supreme Court vacated our decision in *Dubois I* and remanded the case for further consideration. *See Dubois II*, 145 S. Ct. at 1041–42. On remand, we held that *Rahimi* "did not abrogate our holding in *Rozier* that section 922(g)(1) is constitutional under the Second Amendment." *Dubois III*, 139 F.4th at 889. We reasoned that "[t]he only time that the *Rahimi* majority mentioned felons was to reiterate *Heller*'s conclusion that prohibitions on the possession of firearms by felons and the mentally ill are presumptively lawful." *Id.* at 893 (citation modified). We explained that "*Rahimi* reinforced—not undermined—*Rozier*." *Id.*

We "reinstate[d] our prior decision and affirm[ed]" the defendant's convictions and sentence. *Id.* at 894.

We conclude that Morrissette's facial and as-applied Second Amendment challenges to § 922(g)(1) fail. We reach this conclusion based on our decision in *Rozier*, in which we held that § 922(g)(1) does not violate the Second Amendment, *Rozier*, 598 F.3d at 770–71, as well as our decision in *Dubois III*, in which we held that neither *Bruen* nor *Rahimi* abrogated *Rozier*, *Dubois III*, 139 F.4th at 889. Our prior-panel-precedent rule requires us to follow *Rozier* and *Dubois III* because they have not been overruled by this Court sitting en banc or abrogated by the Supreme Court. *See United States v. White*, 837 F.3d 1225, 1228 (11th Cir. 2016). We thus affirm Morrissette's conviction.

AFFIRMED.