

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JESUS AARON RAMIREZ, PETITIONER,

v.

UNITED STATES OF AMERICA, RESPONDENT.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Title 18 U.S. Code § 922(g)(1) permanently disarms millions of Americans based solely on a prior felony conviction, without any individualized finding of present dangerousness. Under this Court's decisions in *New York State Rifle & Pistol Ass'n v. Bruen* and *United States v. Rahimi*, modern firearm regulations must be consistent with the nation's historical tradition of firearm regulation. The courts of appeals are deeply divided over whether § 922(g)(1)'s categorical lifetime prohibition satisfies that historical test. Therefore, the Question Presented is as follows:

Does the Second Amendment permit Congress to impose a permanent, categorical firearm prohibition based solely on a prior felony conviction?

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OPINIONS BELOW

The unpublished decision of the Fifth Circuit Court of Appeals is attached as [App. A]. The judgment of the District Court is attached as [App. B].

PARTIES TO THE PROCEEDING AND COMPLIANCE WITH RULE 14(B)

The parties to the proceeding are listed in the caption. There are no corporate parties, and this case was not consolidated with any other appeal.

JURISDICTION

The jurisdiction of the Fifth Circuit Court of Appeals was invoked from the denial by the United States District Court for the Western District of Texas under 28 U.S.C. § 1291 and 18 U.S.C. § 3742.

The decision of the Court of Appeals was entered on December 11, 2025 [App. A]. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS

This case concerns the constitutionality of 18 U.S.C. § 922(g)(1), which prohibits felons, both nonviolent and violent, from possessing firearms. The relevant constitutional and statutory provisions are as follows.

The Second Amendment to the United States Constitution 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.” U.S. Const. amend. II.

Title 18 U.S.C. § 922(g)(1) provides: “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.”¹

These provisions are central to this case. Petitioner challenges the constitutionality of § 922(g)(1), as applied to felons, under the Second Amendment and the interpretive framework established by *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. ___ (2022).

STATEMENT OF THE CASE

On August 6, 2024, investigators with the Ector County Sheriff’s Office, accompanied by a federal agent, executed a state search warrant at the residence of petitioner, Jesus Aaron Ramirez, in Odessa, Texas, after arranging a controlled purchase of methamphetamine. Prior to the search, deputies stopped petitioner, who was the sole occupant of his vehicle. According to the investigative report, petitioner

¹ 18 U.S.C. § 922(g)(1).

voluntarily informed officers that firearms were located inside the residence. To further assist law enforcement, Mr. Ramirez also provided investigators with a key to his residence and proactively informed them that a dog was inside, noting that it was friendly.

During the search, officers recovered three handguns from the residence: a .40 caliber Smith & Wesson, a 9 mm Ruger, and a .22 caliber pistol. Narcotics were also recovered. Petitioner acknowledged that he had a prior felony conviction and understood that federal law prohibited him from possessing firearms. He stated that he was storing firearms for friends. Petitioner was not charged in this case with a federal drug offense, though the district court found that the firearms were possessed in connection with drug activity for purposes of sentencing.

Petitioner's predicate felony conviction occurred approximately twenty-five years earlier and involved a drug offense that did not have force or violence as an element. On August 28, 2024, a federal grand jury returned a one-count indictment charging petitioner with being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). Petitioner pleaded guilty without a plea agreement. On January 17, 2025, the district court sentenced him to 57 months of imprisonment, followed by three years of supervised release. The court entered judgment on January 31, 2025. Petitioner timely filed a notice of appeal.

On appeal, petitioner argued that 18 U.S.C. § 922(g)(1), which imposes a permanent firearm prohibition based solely on a prior felony conviction, violates the

Second Amendment. The court of appeals affirmed on plain-error review. Petitioner seeks review solely of his Second Amendment challenge and does not seek certiorari on any other constitutional claims. This petition follows.

REASONS FOR GRANTING THE PETITION

I. This case deepens an entrenched circuit split which this Court has not yet addressed.

A. The courts of appeals are openly and irreconcilably divided on § 922(g)(1)'s constitutionality.

Section 922(g)(1) permanently disarms millions of Americans based solely on a prior felony conviction. In the wake of *Bruen* and *Rahimi*, the courts of appeals have divided sharply over whether that sweeping lifetime prohibition is consistent with the Second Amendment's text, history, and tradition test.² Some courts have concluded that categorical felon disarmament lacks historical support. Others have upheld it as presumptively valid without meaningful historical inquiry. The conflict is direct, acknowledged, and outcome-determinative in thousands of cases each year.

The Third Circuit, sitting en banc, struck down § 922(g)(1) as applied to a nonviolent conviction for food-stamp fraud.³ The court held that the people protected by the Second Amendment include individuals with felony convictions and that

² *Bruen*, 142 S. Ct. 2130; *Rahimi*, 144 S. Ct. 1889.

³ *Range v. Attorney General*, 69 F.4th 96 (3d Cir. 2023).

permanent categorical disarmament lacked historical precedent.⁴ By contrast, in *Diaz*, the Fifth Circuit upheld § 922(g)(1), reading *Bruen* to permit categorical restrictions on felons.⁵ The Eighth Circuit has reached similar conclusions, treating felon disarmament as categorically permissible without individualized inquiry. Other courts have taken varying approaches, some suggesting that the statute may be unconstitutional as applied to certain classes of offenders but not others. Still others have sidestepped the question entirely by invoking plain-error review.

The result is an entrenched and acknowledged split. In some jurisdictions, individuals with decades-old nonviolent felonies may not be permanently stripped of Second Amendment rights; in others, they are disarmed for life without any possibility of restoration. This divergence produces conflicting outcomes for thousands of federal defendants and undermines uniformity in the application of constitutional law. Only this Court can resolve the conflict.

The division is not peripheral or fact-bound. It concerns the validity of a federal statute that carries a ten-year statutory maximum and is charged in thousands of cases annually. The constitutional rule governing § 922(g)(1) differs depending on the circuit in which a defendant is prosecuted. Such geographic variability in the scope of a fundamental constitutional right is intolerable and warrants this Court's intervention.

⁴ *Range*, 69 F.4th 96.

⁵ *United States v. Diaz*, 116 F.4th 458 (5th Cir. 2024); *Bruen*, 142 S. Ct. 2130.

B. This Court has not resolved whether § 922(g)(1)'s lifetime prohibition on all felons is consistent with the Second Amendment.

The Second Amendment guarantees that “the right of the people to keep and bear Arms, shall not be infringed.”⁶ In *Bruen*, the Court clarified that the scope of this right must be assessed by reference to “the Nation’s historical tradition of firearm regulation,” not interest balancing.⁷ The Court’s framework directs lower courts to evaluate whether modern firearm restrictions are “relevantly similar” to historical analogues.⁸

Two years later, in *United States v. Rahimi*, 144 S. Ct. 1889 (2024), the Court considered § 922(g)(8), which prohibits firearm possession by individuals subject to a domestic-violence restraining order.⁹ The Court upheld that provision, emphasizing two features that tethered it to historical tradition: (1) the restriction was temporary, and (2) it was imposed following an individualized finding of dangerousness.¹⁰ The Court stressed that categorical disarmament absent such findings raised distinct constitutional concerns.

Section 922(g)(1) presents precisely the unresolved question. Unlike § 922(g)(8), it imposes a permanent, status-based prohibition on all felons, violent and nonviolent alike, without any individualized adjudication of present danger. Nor does

⁶ U.S. Const. amend. II.

⁷ *Bruen*, 142 S. Ct. 2130.

⁸ *Id.* at 2132.

⁹ *Rahimi*, 144 S. Ct. 1889 (2024).

¹⁰ *Rahimi*, 144 S. Ct. 1889 (2024).

federal law provide a reliable or judicially enforceable mechanism for restoring rights once lost. Whether such a sweeping rule fits within the Second Amendment’s historical tradition has not been decided by this Court and is the central fault line now dividing the courts of appeals.

II. This issue is important and recurring.

A. The question presented arises in thousands of cases each year, magnifying the stakes for uniform resolution.

Section 922(g)(1) is among the most frequently charged provisions in the U.S. Code. According to Sentencing Commission data, at the federal level, felon-in-possession convictions number several thousand annually, involving over ten percent of all federal criminal cases.¹¹ And that figure does not include the countless state-level felonies that trigger federal disqualification. This staggering volume underscores the urgent need for clarity. In some circuits, individuals with decades-old, nonviolent convictions retain no avenue for restoring their Second Amendment rights. In others, courts have held that permanent categorical disarmament is unconstitutional. Consequently, the scope of a fundamental constitutional right depends on geography.

¹¹ U.S. Sentencing Comm’n, “Quick Facts: 18 U.S.C. § 922(g) Firearms Offenses (2024)”.

Moreover, the statutory maximum for a single § 922(g)(1) violation is ten years' imprisonment, comparable to or even greater than penalties for violent offenses. When combined with enhancements or upward variances, defendants face extremely severe consequences for conduct that may be wholly divorced from violence or present danger. The combination of frequency and severity makes this one of the most consequential recurring constitutional questions before the Court.

The statute's sweep is extraordinary. It applies to all felony convictions, violent or nonviolent, recent or remote. A person convicted decades ago of a nonviolent property or regulatory offense is treated identically to one with a recent violent record. Once imposed, the ban operates as a lifetime disability and lacks a reliable, judicially enforceable mechanism for individualized rights restoration. Even governors' pardons or state-level restorations of civil rights may not suffice under federal law. By permanently disarming broad swaths of the population without individualized assessment, the statute risks undermining the very principle of "the people" at the heart of the Second Amendment. The Court's review is necessary to ensure that one of the most frequently applied criminal laws aligns with constitutional limits.

B. Political remedies are fragmentary and inadequate, underscoring the need for judicial resolution.

The Department of Justice has recognized the overbreadth of categorical firearm bans, occasionally supporting administrative or legislative measures to restore rights for certain classes of offenders. Past administrations as well as the current presidential administration have signaled openness to restoring rights in select cases through clemency or pilot restoration efforts. States, too, maintain their own patchwork systems of pardons and civil-rights restorations.

But these remedies are inconsistent, discretionary, and subject to political winds. One defendant may regain his rights through gubernatorial action, while another identically situated individual remains permanently barred under federal law. High-profile individuals with access to political capital may secure clemency, while ordinary citizens cannot. A constitutional right cannot turn on the vagaries of politics. Until this Court speaks, the scope of a core constitutional right will continue to depend on geography, prosecutorial discretion, or political favor, precisely the type of instability and arbitrariness that the Constitution was designed to prevent. Only a clear constitutional rule from this Court can provide the necessary uniformity.

III. This Court’s ongoing consideration of status-based firearm prohibitions underscores the need for review.

This petition arises at a moment when this Court is actively clarifying the constitutional limits of status-based firearm prohibitions under the Second Amendment. Most recently, the Court heard argument in *Hemani*, a case addressing the constitutionality of 18 U.S.C. § 922(g)(3), which criminalizes firearm possession by an “unlawful user” of a controlled substance.¹² Like § 922(g)(1), the statute at issue in *Hemani* imposes criminal liability based on a person’s status rather than on an individualized judicial determination of present dangerousness. The Court’s review in *Hemani* reflects the continuing importance of defining the outer boundaries of prohibited-person firearm regulations under the historical-tradition framework announced in *Bruen* and applied in *Rahimi*.¹³ Both cases emphasized that modern firearm regulations must be consistent with the nation’s historical tradition of firearm regulation and that contemporary policy judgments cannot substitute for historical analogues.

Section 922(g)(1) presents a closely related but distinct question of exceptional national importance. Unlike § 922(g)(3), which turns on contemporaneous drug use, § 922(g)(1) imposes a permanent, lifetime prohibition triggered solely by the fact of a prior felony conviction, regardless of the passage of time, the nature of the offense, or

¹² *United States v. Hemani*, No. 24-1234 (U.S. argued Mar. 2, 2026).

¹³ *Bruen*, 142 S. Ct. 2111; *Rahimi*, 144 S. Ct. 1889.

any subsequent rehabilitation. It is the broadest and most frequently enforced of the federal prohibited-person statutes. If the Court is to clarify how the historical-tradition test applies to status-based firearm restrictions, § 922(g)(1) is the most consequential context in which to do so.

Moreover, the issues presented in *Hemani* and in this case arise from the same structural tension within the lower courts.¹⁴ Some courts have treated status-based firearm prohibitions as categorically permissible without individualized inquiry. Others have required closer examination of whether historical practice supports permanent disarmament of non-dangerous persons. The result has been doctrinal fragmentation across jurisdictions.¹⁵ Clarification in one subsection of § 922(g) will inevitably affect the constitutional analysis of others.

Review in this case would therefore allow the Court to address the most sweeping and entrenched form of status-based disarmament while the broader doctrinal framework remains in active development. Whether Congress may permanently disarm individuals based solely on a prior felony conviction, without individualized findings of present dangerousness and without a reliable, judicially

¹⁴ *Hemani*, No. 24-1234 (argued Mar. 2, 2026).

¹⁵ Lower courts continue to grapple with the application of *Bruen* to various prohibited-person provisions. *United States v. Cooper*, 127 F.4th 1092 (8th Cir. 2025), and *United States v. Baxter*, 127 F.4th 1087 (8th Cir. 2025). See also *United States v. Yancey*, 621 F.3d 681 (7th Cir. 2010) (pre-*Bruen* framework). The continuing litigation across subsections of § 922(g) underscores the unsettled scope of status-based firearm prohibitions under *Bruen*'s historical-tradition test.

enforceable mechanism for restoration of rights, is a question that sits at the center of the Court’s recent Second Amendment jurisprudence.

This case presents that question in a posture that permits direct resolution. As the Court continues to delineate the historical limits of firearm regulation, review here provides needed clarity regarding the constitutional status of the most frequently applied prohibited-person provision in federal law.

IV. The decision below was incorrect.

A. Section 922(g)(1) lacks the safeguards this Court deemed essential in *Bruen* and *Rahimi*.

This Court has directed that firearm restrictions must be “relevantly similar” to historically accepted measures.¹⁶ In *Rahimi*, the Court upheld § 922(g)(8) because it was temporary and imposed after an individualized finding of dangerousness, features that mirrored historical practice.¹⁷ Section 922(g)(1) has neither safeguard. It imposes a lifetime prohibition triggered solely by the fact of a felony conviction, with no consideration of rehabilitation, passage of time, or present danger. It offers no meaningful avenue for the restoration of rights. The categorical, permanent sweep of § 922(g)(1) is without historical precedent, and under *Bruen* and *Rahimi*, it should not survive.¹⁸

¹⁶ *Bruen*, 142 S. Ct. at 2132.

¹⁷ *Rahimi*, 144 S. Ct. 1889; *Bruen*, 142 S. Ct. 2130.

¹⁸ *Rahimi*, 144 S. Ct. 1889 (2024).

B. The historical record confirms that categorical lifetime disarmament is unprecedented.

The historical record from the Founding era provides no support for § 922(g)(1)'s sweeping lifetime prohibition. To the contrary, the limited firearm restrictions that existed were targeted, temporary enforcements linked to specific circumstances of dangerousness. At the Founding, militia laws required that all able-bodied free men be armed.¹⁹ These provisions did not carve out felons or other broad classes of offenders. To the extent disarmament was imposed, it was generally tied to rebellion, active threats, or refusal to take loyalty oaths.²⁰ Such measures were both conditional and reversible, reflecting a concern with immediate public danger rather than permanent exclusion from “the people.”

This Court in *Bruen* emphasized that modern firearm restrictions must be “relevantly similar” to historical regulations.²¹ Nothing in early American practice supports the notion that all felons, regardless of offense, rehabilitation, or present conduct, were permanently stripped of their Second Amendment rights. The government has argued in other cases that longstanding prohibitions on felons are themselves evidence of constitutionality, but those prohibitions on felons are products

¹⁹ See, e.g., Militia Act of 1792, 1 Stat. 271.

²⁰ See Saul Cornell & Nathan DeDino, “A Well Regulated Right,” 73 *Fordham L. Rev.* 487, 506–7 (2004).

²¹ *Bruen*, 142 S. Ct. at 2132.

of the twentieth century, not the eighteenth.²² A statute of modern origin cannot supply the historical analogue required by *Bruen*. The Court’s intervention is necessary to align federal firearms law with constitutional history.

In addition, the government may attempt to rely on historical statutes disarming certain groups, but many of those enactments arose in the antebellum South and were rooted in the preservation of slavery and racial hierarchy. Others emerged during Reconstruction and the early twentieth century, often as tools of Jim Crow or nativist social control. None of these discriminatory measures reflects the kind of neutral and enduring historical tradition that *Bruen* requires, and all stand far removed from the Founding. They were often overtly racist, aimed at preventing black freedmen from exercising newly recognized rights, excluding Native Americans from citizenship and arms-bearing, or reinforcing Jim Crow social hierarchies.²³ Other restrictions grew out of early twentieth-century nativist sentiment and fears of immigrant-labor unrest. Such discriminatory measures reflected prejudice and political expedience, not a neutral principle of public safety. They cannot serve as the kind of enduring historical tradition that *Bruen* requires.

²² See C. Kevin Marshall, “Why Can’t Martha Stewart Have a Gun?” 32 Harv. J.L. & Pub. Pol’y 698–710 (2009).

²³ *Id.* at 726.

C. Militia obligations at the Founding assumed universal armament.

American society and law at the Founding assumed that citizens would be armed. The Militia Act of 1792 required “every free able-bodied white male citizen” of the appropriate age to maintain a musket or rifle.²⁴ This and related statutes contained no carveouts for felons as a class. On the contrary, they reflected the civic duty of virtually all citizens to keep and bear arms in defense of the republic. If anything, the Founding generation took for granted that armament was the rule and that disarmament could be justified only in narrow, exceptional circumstances.

D. Founding-era disarmament was temporary and tied to present threats.

When disarmament did occur in the late eighteenth and early nineteenth centuries, it was limited and conditional. Revolutionary-era legislatures sometimes disarmed those who refused to swear loyalty oaths or who were “notoriously disaffected” toward the cause.²⁵ These restrictions ended once the crisis passed or the individual swore allegiance. Similarly, statutes aimed at rebels, insurrectionists, or actively dangerous people tied firearm restrictions to an immediate threat of violence. They did not impose a lifetime disability based on past conduct alone. In

²⁴ Militia Act of 1792, 1 Stat. 271 (1792).

²⁵ See Act of May 1, 1776, ch. 21, 1776 Mass. Acts 479.

short, early American law treated disarmament as a temporary response to ongoing danger, not a permanent mark of unworthiness.

E. Felon disarmament is a twentieth-century innovation.

The modern practice of disarming all felons, regardless of offense type, dates only to the mid-twentieth century. The Federal Firearms Act of 1938 prohibited firearm possession by certain violent offenders.²⁶ Congress first extended the prohibition in 1961 to crimes punishable by more than one year in prison, and in 1968 Congress codified the modern felon-in-possession ban, sweeping in all felony convictions regardless of type.²⁷ That shift reflected a modern policy judgment, not an inherited constitutional tradition. Leading scholarship confirms that the categorical lifetime disarmament embodied in § 922(g)(1) was unknown at the Founding and is purely a modern invention.²⁸ The absence of any such analogue in early American law is fatal under this Court’s interpretive framework.

²⁶ See ch. 850, § 2(f), 52 Stat. 1250;

²⁷ Pub. L. No. 87-342, 75 Stat. 757; Also see 18 U.S.C. § 922(g).

²⁸ See C. Kevin Marshall, “Why Can’t Martha Stewart Have a Gun?” 32 Harv. J.L. & Pub. Pol’y 695, 735 (2009).

V. This case presents a good vehicle.

A. This case presents no procedural complications.

This case presents a straightforward and purely legal question: whether 18 U.S.C. § 922(g)(1)'s permanent, categorical prohibition on firearm possession by all felons is consistent with the Second Amendment under this Court's decisions in *Bruen* and *Rahimi*.²⁹ The constitutional question does not turn on petitioner's particular offense but on whether Congress may impose a permanent, status-based prohibition triggered solely by a prior felony conviction. No factual development is required to resolve that question.

The constitutional issue was expressly raised in the court of appeals. The Fifth Circuit reviewed the claim under the plain-error standard and affirmed. The court did not reject the claim on factual grounds, nor did it rely on any case-specific factual finding. The court's reliance on plain-error review reflects the prevailing assumption among lower courts that § 922(g)(1) is constitutionally settled absent further guidance from this Court, an assumption that underscores the need for review. The judgment below rests on a legal determination that, in light of existing circuit precedent, any constitutional error was not clear or obvious under plain-error review. The constitutional question was therefore presented to and addressed by the court of appeals, which rejected relief under that legal framework.

²⁹ *Bruen*, 142 S. Ct. 2130; *Rahimi*, 144 S. Ct. 1889.

Nor does the factual background complicate review. Petitioner was convicted under § 922(g)(1). He was not charged with any federal drug offense in this case. His predicate conviction occurred approximately twenty-five years earlier and involved a drug offense that did not have force or violence as an element. The statute at issue imposes a lifetime prohibition triggered solely by the existence of that prior conviction. Whether such permanent, status-based disability comports with the nation’s historical tradition of firearm regulation is a purely legal question independent of petitioner’s particular circumstances.

The plain-error posture does not diminish the suitability of this case for review. Lower courts have repeatedly treated § 922(g)(1) as constitutionally settled absent further guidance from this Court. As a result, defendants raising as-applied Second Amendment challenges are routinely denied relief on the ground that any error is not “clear or obvious.” This procedural dynamic effectively insulates the constitutional question from meaningful review unless this Court intervenes. Granting certiorari here would provide needed clarity on an issue that lower courts have acknowledged but declined to resolve definitively.

The issue is purely legal, squarely presented, and recurring in thousands of prosecutions each year. It is an appropriate vehicle for resolving whether Congress may impose a permanent, categorical firearm prohibition on all felons consistent with the Second Amendment. There are no jurisdictional barriers, waiver issues, or factual disputes that would impede review. The constitutional question was

presented to the court of appeals and resolved on purely legal grounds. This case therefore provides an appropriate and efficient vehicle for clarifying the constitutional limits of status-based firearm prohibitions.

B. Petitioner’s background does not detract from the vehicle posture.

Petitioner’s individual circumstances do not change the nature of the question before the Court. The judgment below rests on the categorical application of 18 U.S.C. § 922(g)(1), which imposes a permanent firearm prohibition based solely on the existence of a prior felony conviction. The constitutional issue presented is whether such a lifetime, status-based prohibition is consistent with the Second Amendment under this Court’s historical-tradition framework. That question is legal in character and independent of any disputed factual finding regarding petitioner’s personal history.

CONCLUSION

For these reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink that reads "Joseph Ostini". The signature is written in a cursive style with a large initial 'J' and 'O'.

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