APPENDIX A

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-1993

UNITED STATES OF AMERICA

v.

DIJUAN TAYLOR,

Appellant

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. No. 2:23-cr-00091-001)
District Judge: Honorable Nora B. Fischer

Submitted Under Third Circuit L.A.R. 34.1(a)
November 12, 2025

Before: RESTREPO, McKEE, and AMBRO, *Circuit Judges*

(Opinion filed: January 7, 2026)

OPINION*

McKEE, *Circuit Judge*.

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* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

I.

Dijuan Taylor appeals from the District Court's judgment of sentence, arguing that 18 U.S.C. § 922(g)(1) violates the Second Amendment facially and as applied to him.[1] However, Taylor concedes that his arguments are foreclosed by our decisions in *United States v. Moore* and *United States v. Quailes* because he was on state probation at the time of his indictment.[2] We agree.

II.

For the reasons discussed above, we will affirm the District Court's judgment of sentence.

[1] We have jurisdiction pursuant to 28 U.S.C. § 1291.We review the District Court's legal conclusions de novo and its factual findings for clear error. *United States v. Moore*, 111 F.4th 266, 268 n.1 (3d Cir. 2024), cert. denied, No. 24-968, 2025 WL 1787742 (U.S. June 30, 2025).

[2] *Moore*, 111 F.4th at 272 (holding "that convicts may be disarmed while serving their sentences on [federal] supervised release"); *Quailes*, 126 F.4th 215, 217 (3d Cir. 2025) (extending *Moore*'s logic to "appl[y] with equal force to defendants who are on state supervised release—including a sentence of parole or probation"). Taylor's facial challenge necessarily fails because he cannot "establish that no set of circumstances exists under which the Act would be valid." *United States v. Rahimi*, 602 U.S. 680, 693 (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987)).

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	)	
	)	
	)	
v.	)	Criminal No. 23-91
	)	Judge Nora Barry Fischer
DIJUAN TAYLOR,	)	
	)	
Defendant.	)	

MEMORANDUM ORDER

AND NOW, this 12th day of December, 2023, upon consideration of Defendant Dijuan Taylor's Motion to Dismiss Indictment, (Docket No. 25), wherein he asserts facial and as-applied challenges that Count 1 charging him with felon-in-possession of a firearm and ammunition under 18 U.S.C. § 922(g)(1) violates his Second Amendment rights, and separately argues that § 922(g)(1) is void for vagueness and violates the Commerce Clause, the Government's Response in opposition, (Docket No. 31), Defendant's Reply, (Docket No. 34), the Government's Sur-Reply, (Docket No. 37), and the parties' Supplemental Briefs, (Docket Nos. 39, 41), and after careful consideration of the parties' arguments in light of applicable precedent, and for reasons more fully stated below,

IT IS HEREBY ORDERED that Defendant's Motion to Dismiss [25] is DENIED.

In so holding, the Court notes that Defendant has neither established that § 922(g)(1) is unconstitutional as applied to the circumstances of his case under *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, —— U.S. ——, 142 S.Ct. 2111 (2022) and *Range v. Attorney General*, 69 F.4th 96 (3d Cir. 2023) nor has he shown that the statute is unconstitutional on its face.

Defendant's as-applied challenge fails for several reasons. Initially, the Court is

persuaded by numerous decisions issued by the Court's colleagues in this District denying such motions brought by individuals like the instant Defendant who was on state probation at the time of the offense conduct or some other form of court supervision. *See e.g.*, *United States v. Terry & Walker*, Crim. Nos. 20-43 & 22-178, 2023 WL 6049551 (W.D. Pa. Sept. 14, 2023) (Ranjan, J.) (defendants lacked standing to raise Second Amendment defense as they were serving state sentences at time of their offenses); *United States v. Hilliard*, Crim. No. 23-110, 2023 WL 6200066 (W.D. Pa. Sept. 21, 2023) (Ranjan, J.) (defendant lacked standing to raise Second Amendment defense as he was on state parole at the time of the offense); *United States v. Deamonte Law*, Crim. No. 20-341, 2023 WL 5176297 (Bissoon, J.) (denying motion to dismiss as defendant was on federal supervised release at the time of the offense conduct); *United States v. Harrison*, Crim. No. 23-129-23, 2023 WL 6795588 (W.D. Pa. Oct. 13, 2023) (Stickman, J.) (denying as-applied challenge as the defendant was on state pretrial supervision at the time of the offense and in possession of stolen firearm); *United States v. William Lacell Dark, Jr.*, Crim. No. 21-413, Docket No. 88 at 1 (W.D. Pa. Oct. 24, 2023) (Bissoon, J.) ("Defendant's 'as applied' challenge fails because he was an active state probationer").

The Court further finds that the "narrow" decision in *Range* is distinguishable because that case involved Range's proposed conduct that he be permitted to lawfully possess a firearm to hunt and for self-protection while Defendant was admittedly engaged in unlawful conduct at the time he allegedly possessed the firearm and ammunition, i.e., he was fleeing and/or attempting to flee from police after a lawful traffic stop. (*See* Docket No. 25 at 4 ("When it was his turn to step out [of the vehicle], Mr. Taylor tried to run away and was quickly tackled by police. As he was being tackled, a Glock handgun allegedly fell out of Mr. Taylor's pants and landed on the ground. It was then retrieved by police.")). *See e.g., United States v. Pope*, Crim. No. 20-282, 2023 WL 7194773, at

*4 (W.D. Pa. Nov. 1, 2023) (Horan, J.) (denying as-applied challenge because defendant possessed firearm while attempting to disrupt the lawful execution of search warrant at residence); *United States v. Naylor*, Crim. No. 21-398, 2023 WL 7166452, at *3 (W.D. Pa. Oct. 31, 2023) (Horan, J.) ("Defendant's conduct of possessing ammunition and firing multiple shots from a firearm in a public housing complex establishes him as a person who is dangerous to the safety of the public and is disruptive to the orderly functioning of society.").

In any event, the Court otherwise agrees with the cases holding that an individual such as Defendant who was previously convicted of felony firearms offenses, including the state offense of carrying a firearm without a license, places him within the category of felons who have historically been prohibited from bearing arms. *See e.g., Pope*, 2023 WL 7194773, at *5 (Horan, J.) ("Defendant's relevant 922(g)(1) qualifying firearm convictions, two firearm felonies, clearly demonstrate that he is a threat to public safety and to the orderly functioning of society."); *Harrison*, 2023 WL 6795588, (Stickman, J.) (denying a similar motion brought by a defendant whose prior convictions included state law convictions for carrying a firearm without a license and a federal conviction under § 922(g)(1)); *United States v. Jones*, Crim. No. 20-21, 2023 WL 6541040, at *1 (W.D. Pa. Oct. 6, 2023) (Bissoon, J.) (rejecting as-applied challenge given defendant's prior convictions for two prior convictions for carrying a firearm without a license and another for possessing a firearm after a felony conviction); *United States v. Mackall*, Cr. No. 22-111, Docket No. 95 at 7 (W.D. Pa. Oct. 17, 2023) (denying motion to dismiss in light of prior convictions including aggravated assault and carrying firearm without a license). Hence, the Court finds that the Government has met its burden under *Range* and *Bruen* to show that the enforcement of § 922(g)(1) is appropriate in this instance "'by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation.'" *Range*, 69 F.4th at 103 (quoting

Bruen, 142 S. Ct. at 2130).

All told, Defendant's as-applied challenge must be denied and his corresponding facial challenge likewise fails because he has not met his burden to show that there are no set of circumstances where the enforcement of § 922(g)(1) would be valid. *See United States v. Mitchell*, 652 F.3d 387, 405 (3d Cir. 2011) ("A party asserting a facial challenge 'must establish that no set of circumstances exists under which the Act would be valid.'"); *see also Harrison*, 2023 WL 6795588, at *5 ("The Third Circuit, in *Range*, did not find § 922(g)(1) facially unconstitutional").

The Court further finds that § 922(g)(1) is neither void for vagueness nor does it violate the Commerce Clause and will deny Defendant's motion to dismiss on these grounds as well. *See e.g, United States v. Penn*, 870 F.3d 164, 165, n. 2 (3d Cir. 2017) ("we agree that our decision in *United States v. Singletary*, 268 F.3d 196, 204–05 (3d Cir. 2001), upholds the constitutionality of the felon-in-possession statute."); *Pope*, 2023 WL 7194773, at *5 (§ 922(g)(1) is not void for vagueness because the statute "requires the government to prove that the defendant actually knew that he had been convicted of a crime punishable by imprisonment for a term exceeding one year."); *United States v. Woznichak*, No. CR 21-242, 2023 WL 7324442, at *8 (W.D. Pa. Nov. 7, 2023) (Hardy, J.) (same); *Harrison*, 2023 WL 6795588, at *5 ("§ 922(g)(1) does not fail to provide 'fair notice of what is prohibited,' and is not unconstitutionally vague.").

It is so ordered.

s/ Nora Barry Fischer
Nora Barry Fischer
Senior U.S. District Judge

cc/ecf: All counsel of record