

APPENDIX

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NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-11894
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DIMITRI BEAUBRUN,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 9:24-cr-80162-DMM-1

Before JILL PRYOR, BRANCH, and LAGOA, Circuit Judges.

PER CURIAM:

Dimitri Beaubrun appeals his conviction for possessing a firearm and ammunition as a convicted felon. Beaubrun argues that 18 U.S.C. § 922(g)(1) violates the Second Amendment as

applied to felons such as himself with nonviolent histories. He contends that our decision in *United States v. Dubois (Dubois II)*, 139 F.4th 887 (11th Cir. 2025), which reaffirms that, under *United States v. Rozier*, 598 F.3d 768 (11th Cir. 2010), § 922(g)(1) does not violate the Second Amendment, is inconsistent with our earlier ruling in *NRA v. Bondi*, 133 F.4th 1108 (11th Cir. 2025) (en banc). Specifically, Beaubrun contends that in *Bondi* as-applied challenges to firearm regulations must be analyzed under the framework announced in *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022), and *United States v. Rahimi*, 602 U.S. 680 (2024). Thus, he argues that, under the prior panel precedent rule, *Bondi* controls and his constitutional challenge to § 922(g)(1) must be considered under that framework. Beaubrun also contends that *Florida Commissioner of Agriculture v. Attorney General*, 148 F.4th 1307 (11th Cir. 2025), reaffirms that the *Bruen/Rahimi* framework applies to all federal laws restricting arms-bearing conduct. In response, the government moves for summary affirmance, arguing that Beaubrun’s challenge is foreclosed by *Dubois II* and *Rozier* and that *Bondi* and *Florida Commissioner* are not inconsistent with those decisions.

Summary disposition is appropriate either where time is of the essence, such as “situations where important public policy issues are involved or those where rights delayed are rights denied,” or where “the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case, or where . . . the appeal is frivolous.” *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

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We review challenges to the constitutionality of a statute de novo. *United States v. Jimenez-Shilon*, 34 F.4th 1042, 1043 (11th Cir. 2022).

Under our prior panel precedent rule, “a prior panel’s holding is binding on all subsequent panels unless and until it is overruled or undermined to the point of abrogation by the Supreme Court or by this [C]ourt sitting *en banc*.” *United States v. Archer*, 531 F.3d 1347, 1352 (11th Cir. 2008). “To overrule or abrogate a prior panel’s decision, the subsequent Supreme Court or *en banc* decision must be clearly on point and must actually abrogate or directly conflict with, as opposed to merely weaken, the holding of the prior panel.” *United States v. Gillis*, 938 F.3d 1181, 1198 (11th Cir. 2019) (citation modified). Abrogation requires the subsequent decision to “demolish and eviscerate all the fundamental props of the prior-panel precedent.” *United States v. Lightsey*, 120 F.4th 851, 860 (11th Cir. 2024) (citation modified).

Section 922(g)(1) prohibits any person who has been convicted of a crime punishable by a term of imprisonment exceeding one year from “possess[ing] in or affecting commerce, any firearm or ammunition.” 18 U.S.C. § 922(g)(1).

The Second Amendment provides that “[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.

In *District of Columbia v. Heller*, the Supreme Court held that the Second Amendment protects an individual right to keep and

bear arms, subject to certain limitations. 554 U.S. 570, 595 (2008). The Court held that the District of Columbia’s ban on handgun possession in the home, without any exception for self-defense, was unconstitutional as applied to a police officer who sought to keep a handgun in his home for self-defense. *Id.* at 574, 628–30. The Court cautioned that “nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill.” *Id.* at 626. The Court described such prohibitions as “presumptively lawful.” *Id.* at 627 n.26.

Following *Heller*, we ruled in *Rozier* that statutory restrictions on the possession of firearms by felons under any and all circumstances, such as 18 U.S.C. § 922(g)(1), do not offend the Second Amendment. 598 F.3d at 771. In reaching this conclusion, we referenced *Heller*’s statement that “nothing in [this] opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons.” *Id.* (citation modified).

In *Bruen*, the Supreme Court rejected the “means-end scrutiny” test that several circuits had been using to apply *Heller*. 597 U.S. at 17–19. The Supreme Court clarified the proper test for Second Amendment challenges under *Heller*: (1) “[w]hen the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct,” and (2) “[t]he government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation.” *Id.* at 24; *see id.* at 17. In doing so, the Court repeatedly

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referenced the Second Amendment rights of “law-abiding, responsible citizens.” *Id.* at 26, 38 n.9, 70.

Later, in *Rahimi*, the Supreme Court held that 18 U.S.C. § 922(g)(8)—which prohibits the possession of firearms by individuals subject to a domestic-violence restraining order—did not facially violate the Second Amendment because regulations prohibiting individuals who pose a credible threat of harm to others from misusing firearms are part of this country’s historical tradition. 602 U.S. at 693–700. The Court noted that lower courts had misunderstood the *Bruen* methodology and clarified that the Second Amendment allows firearm regulations “consistent with the principles that underpin our regulatory tradition” and are “relevantly similar to laws that our tradition is understood to permit.” *Id.* at 691–92 (citation modified). The Court again noted *Heller*’s language that prohibitions on felons’ possession of firearms are “presumptively lawful.” *Id.* at 699 (citation modified).

After *Bruen* but before *Rahimi*, we held in *Dubois I* that *Bruen* did not abrogate *Rozier*’s holding that § 922(g)(1) was constitutional because the Supreme Court in *Bruen* made it clear that its holding was a faithful application of *Heller*, which, in turn, “made it clear . . . that its holding did not cast doubt on felon-in-possession prohibitions.” *United States v. Dubois (Dubois I)*, 94 F.4th 1284, 1292–93 (11th Cir. 2024) (citation modified), *vacated*, 145 S. Ct. 1041 (2025), *reinstated*, 139 F.4th 887 (11th Cir. 2025) (*Dubois II*). The Supreme Court subsequently vacated *Dubois I* and remanded for

reconsideration in light of *Rahimi*. *Dubois v. United States*, 145 S. Ct. 1041, 1042 (2025).

While *Dubois* was on remand, we issued an en banc decision in *Bondi*, ruling that Florida’s law prohibiting the purchase of firearms by minors was not unconstitutional as applied to individuals between the ages of 18 and 21 because it was consistent with this nation’s historical tradition of firearm regulation. 133 F.4th at 1111, 1117–30. In doing so, we cited *Rahimi* and *Bruen* in explaining that “when a person challenges a law regulating arms-bearing conduct, courts must examine the historical tradition of firearm regulation in our nation to delineate the contours of the right.” *Id.* at 1114 (citation modified).

Then, in *Dubois II*, we again held that § 922(g)(1) did not violate the Second Amendment and reinstated *Dubois I*. *Dubois II*, 139 F.4th at 888–89, 894. In so holding, we determined that neither *Bruen* nor *Rahimi* abrogated *Rozier*, relying on our reasoning in *Dubois I* and noting that the Supreme Court in *Bruen* and *Rahimi* made clear that those decisions were in keeping with *Heller*. *Id.* at 891–94. We pointed out that these decisions did not concern § 922(g)(1) and that their only reference to felons was *Rahimi*’s reiteration that prohibitions on the possession of firearms by felons are “presumptively lawful,” which suggested that “*Rahimi* reinforced—not undermined—*Rozier*.” *Id.* at 893.

Later, in *Florida Commissioner*, we found that a district court erred in concluding that two medical marijuana users had failed to state a claim in their as-applied Second Amendment challenge to

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18 U.S.C. § 922(d)(3) and (g)(3), which prohibit “unlawful users” of controlled substances from being sold or possessing firearms. See 148 F.4th at 1311, 1321. At *Bruen*’s first step, we concluded that the plaintiffs’ “conduct of attempting to purchase and possess firearms for self-defense purposes is clearly covered by the Second Amendment’s plain text” and that, “while there is a history and tradition . . . of disarming convicted felons, nothing in the [complaint] indicates that [the plaintiffs] have ever been convicted of any crime” or had committed any crime beyond a misdemeanor. *Id.* at 1317. At *Bruen*’s second step, we similarly found that the government “ha[d] not pointed to any historical tradition of disarming those engaged in misdemeanant conduct,” that the plaintiffs had never been convicted of a felony, and that the plaintiffs could not be considered dangerous people solely due to their use of medical marijuana. *Id.* at 1318–19. Significantly, we noted that the government “very well may prove at a later stage of litigation . . . that Appellants can fairly be considered relevantly similar to felons . . . who can categorically be disarmed.” *Id.* at 1321 n. 16.

Here, we conclude that the government is clearly right as a matter of law that Beaubrun’s as-applied constitutional challenge to § 922(g)(1) is foreclosed by *Dubois II* and *Rozier*. Beaubrun’s attempt to evade these precedents based on their purported conflict with *Bondi* and *Florida Commissioner* is unavailing because neither *Bondi* nor *Florida Commissioner* involved a challenge to a felon disarmament statute, suggested that *Rozier*’s analysis of § 922(g)(1) was inconsistent with *Bruen* and *Rahimi*, or demolished and eviscerated *Rozier*’s fundamental props.

Accordingly, because the government's position is clearly right as a matter of law, we **GRANT** its motion for summary affirmance. *See Groendyke*, 406 F.2d at 1162.

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

January 08, 2026

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 25-11894-EE
Case Style: USA v. Dimitri Beaubrun
District Court Docket No: 9:24-cr-80162-DMM-1

Opinion Issued

Enclosed is a copy of the Court's decision issued today in this case. Judgment has been entered today pursuant to FRAP 36. The Court's mandate will issue at a later date pursuant to FRAP 41(b).

Petitions for Rehearing

The time for filing a petition for panel rehearing or rehearing en banc is governed by 11th Cir. R. 40-2. Please see FRAP 40 and the accompanying circuit rules for information concerning petitions for rehearing.

Costs

No costs are taxed.

Bill of Costs

If costs are taxed, please use the most recent version of the Bill of Costs form available on the Court's website at www.ca11.uscourts.gov. For more information regarding costs, see FRAP 39 and 11th Cir. R. 39-1.

Attorney's Fees

The time to file and required documentation for an application for attorney's fees and any objection to the application are governed by 11th Cir. R. 39-2 and 39-3.

Appointed Counsel

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation via the eVoucher system no later than 45 days after issuance of the mandate or the filing of a petition for writ of certiorari. Please contact the CJA Team at (404) 335-6167 or cja_evoucher@ca11.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

Clerk's Office Phone Numbers

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OPIN-1 Ntc of Issuance of Opinion

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

CASE NO. 25-11894-HH

United States,
Appellee,

- versus -

Dimitri Beaubrun,
Appellant.

GOVERNMENT’S MOTION FOR SUMMARY AFFIRMANCE

Certificate of Interested Persons

In compliance with Fed. R. App. P. 26.1 and 11th Cir. R. 26.1-1(a)(3) and 26.1-3, the undersigned certifies that the list set forth below is a complete list of the persons and entities previously included in the appellants’ CIP, and also includes additional persons and entities (designated in bold face) who have an interest in the outcome of this case and were omitted from the government’s previous CIP.

Bailey, Alexandra

Beaubrun, Dimitri

Cheatham, Nadya Z.

Colan, Jonathan D

Davis, Michael S.

Dopico, Hector A.

Funk, Daniel E.

Lacosta, Anthony W.

Lapointe, Markenzy

Matthewman, Hon. William

Matzkin, Daniel

McCabe, Hon. Ryon N.

McCrae, M. Caroline

Middlebrooks, Hon. Donald M.

O'Byrne, Hayden P.

Reding Quiñones, Jason A.

Reinhart, Hon. Bruce E.

United States of America

/s/ Jonathan D. Colan
Jonathan D. Colan
Senior Appellate Attorney

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

CASE NO. 25-11894-HH

United States,
Appellee,

- versus -

Dimitri Beaubrun,
Appellant.

GOVERNMENT’S MOTION FOR SUMMARY AFFIRMANCE

Appellee, the United States of America, respectfully requests summary affirmance of Dimitri Beaubrun’s 18 U.S.C. § 922(g)(1) conviction, rejecting his as-applied Second Amendment challenge to the statute, as this Court has done in numerous other cases. None of the recent authorities Beaubrun cites have undermined this Court’s decision in *United States v. Dubois*, 139 F.4th 887 (11th Cir. 2025), reaffirming § 922(g)(1)’s constitutionality on remand from the Supreme Court for reconsideration after *United States v. Rahimi*, 144 S. Ct. 1889 (2024). This is clear from this Court’s continued rejection of Second Amendment challenges to § 922(g)(1) after *Rahimi* and *NRA v. Bondi*, 133 F.4th 1108 (11th Cir. 2025) (en banc), the cases Beaubrun relies upon (Br. at 11). *See, e.g., United States v. Farrier*, No. 24-11941, 2025 WL 2779326, at *3 (11th Cir. Sept. 30, 2025); *United States v. Gammage*, No. 24-11250, 2025 WL 2504533 (11th Cir. Sept. 2, 2025) (granting

summary affirmance of § 922(g)(1) conviction). In fact, this Court’s *Dubois* decision on remand cites both *Rahimi* and *Bondi* and cannot have been undermined by their prior holdings. *See Dubois*, 139 F.4th at 889 (“*Rahimi* ... did not abrogate our [precedent] that section 922(g)(1) is constitutional”) & at 895 (Pryor, C.J., concurring) (citing *Bondi*).

Nothing has undermined to the point of abrogation this Court’s precedents upholding prohibitions on felon firearm possession in all circumstances. Summary affirmance of Beaubrun’s conviction is therefore appropriate.

PROCEDURAL HISTORY

Appellant Dimitri Beaubrun was indicted by a federal grand jury in the Southern District of Florida and charged with knowingly possessing a firearm and ammunition after having previously been convicted of a crime punishable by more than one year in prison, in violation of 18 U.S.C. § 922(g)(1) (DE:1).

He moved to dismiss his indictment on the grounds that § 922(g)(1) violated the Second Amendment (DE:19). The government opposed his motion (DE:22), and the district court denied dismissal, ruling that it was bound by this Court’s decision in *United States v. Rozier*, 598 F. 3d 768 (11th Cir. 2010) (rejecting a Second Amendment challenge to § 922(g)(1)) (DE:23).

Beaubrun then pled guilty to the charged § 922(g)(1) violation (DE:45:10-11) and submitted a factual proffer in which he stipulated to having committed at least

three “second degree felonies under Florida law ... punishable by a maximum of 15 years of imprisonment” (DE:27:4).¹

The district court entered judgment against Beaubrun, sentencing him to serve a mandatory 180-month imprisonment term, pursuant to 18 U.S.C. § 924(e) (DE:36; *see* Presentence Investigation Report ¶ 82).

Beaubrun filed a timely notice of appeal (DE:37) and is incarcerated.

STIPULATED FACTS

In support of his guilty plea, Beaubrun stipulated that when Palm Beach County Sheriff’s Office deputies responded to a call in August 2024 regarding a vehicle at a construction site, they recovered a loaded 9mm pistol on the rear passenger floorboard of the vehicle, “found near where [Beaubrun’s] feet would have been resting” (DE:27:2-3). One of the other subjects at the scene said that the firearm belonged to Beaubrun (DE:27:3). DNA testing also identified Beaubrun as having handled the pistol (DE:27:3).

Beaubrun had previously been convicted of at least three second degree felonies under Florida law, including for the sale of oxycodone and heroin (DE:27:3-4).

¹ The government had proffered that Beaubrun had previously been convicted of twenty different felony offenses (DE:22:1).

ARGUMENT

Binding precedent holds that felons are categorically not protected by the Second Amendment’s safeguarding of the pre-existing right to bear arms.

Summary disposition is appropriate in cases “in which the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case.” *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).² *See, e.g., United States v. Solomon*, No. 23-10480, 2023 WL 6568132, at *3 (11th Cir. Oct. 10, 2023) (“Given our binding precedent, we conclude that there is no substantial question as to the outcome of this appeal; therefore, summary affirmance is appropriate.”).

Both before and after the cases *Beaubrun* relies upon to challenge this Court’s precedent, this Court has consistently upheld § 922(g)(1)’s validity against Second Amendment challenges. *Accord United States v. Gammage*, No. 24-11250, 2025 WL 2504533, at *1 (11th Cir. Sept. 2, 2025) (summarily affirming § 922(g)(1) conviction); *United States v. Reaves*, No. 23-13582, 2024 WL 4707967 (11th Cir. Nov. 7, 2024) (same). “[B]ecause *Rozier* continues to bind us, [the Appellant’s § 922(g)(1)] challenge must fail.” *United States v. Farrier*, No. 24-11941, 2025 WL 2779326, at *3 (11th Cir. Sept. 30, 2025).

² In *Bonner v. Prichard*, 661 F.2d 1206, 1207 (11th Cir. 1981), the Eleventh Circuit adopted as binding precedent the decisions of the former Fifth Circuit rendered before October 1, 1981.

No one disputes that *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S. Ct. 2111 (2022)’s two-part test, as clarified in *Rahimi*, governs Second Amendment challenges to laws such as § 922(g)(1). Beaubrun simply argues that this Court wrongly applied that test in upholding § 922(g)(1) on post-*Rahimi* remand from the Supreme Court in *Dubois*, 139 F.4th at 888-89. While he may preserve that argument for future purposes, his remedy would be in seeking *en banc* rehearing or Supreme Court review. For now, the district court’s application of *Rozier* was clearly right as a matter of law, and Beaubrun’s conviction should be summarily affirmed.

Bruen’s two-part test applies “the Second Amendment’s text, as informed by history.” *Bruen*, 597 U.S. at 19. If the “plain text” of the Amendment “covers an individual’s conduct” at the first step of the analysis, any regulation of that conduct must then be “consistent with this Nation’s historical tradition of firearm regulation” to pass the second step. *Id.* at 17. This Court applied that test in *Dubois*, 139 F.4th at 891-92, and continued in *Fla. Comm’r of Agric. v. Att’y Gen. of United States*, 148 F.4th 1307, (11th Cir. 2025), to recognize that only if the claimant can make the threshold showing that “the Constitution presumptively protects that conduct” is the government then required to “justify its regulation” by proffering historical analogues to the regulation at issue, *Bruen*, 597 U.S. at 17. *See Fla. Comm’r of Agric.*, 148 F.4th at 1315 (describing *Bruen*’s two-part test).

In *Dubois*, this Court recognized that “*Rozier* upheld section 922(g)(1) on the threshold ground that felons are categorically ‘disqualified’ from exercising their Second Amendment right under [*District of Columbia v. Heller*, 554 U.S. 570 (2008)].” *Dubois*, 139 F.4th at 893. See *Rozier*, 598 F.3d at 771 (“[S]tatutes disqualifying felons from possessing a firearm under any and all circumstances do not offend the Second Amendment.”). That threshold conclusion obviated any need to conduct the second-part historical analysis. It does not mean that *Dubois* failed to apply *Bruen* or *Rahimi*.

This Court recognizes that *Rozier* “continues to bind” this Circuit after *Rahimi*. *Dubois*, 139 F.4th at 894. “*Rahimi*—like [*Bruen*]—did not abrogate” *Rozier*. *Dubois*, 139 F.4th at 889. “[T]he Supreme Court made it clear [that its precedents] did not cast doubt on felon-in-possession prohibitions.” *Id.* at 893 (cleaned up).

Beaubrun can show nothing in *Rahimi*’s clarification of *Bruen*’s historical test or this Court’s discussion of it in its *en banc Bondi* decision that *Dubois* contradicted. *Bondi* did not “make[] clear that *Rahimi* indeed abrogated *Rozier*,” as Beaubrun argues (Br. at 13). *Bondi* never mentioned *Rozier*, the original *Dubois* panel decision, or § 922(g)(1). And this Court specifically addressed *Rahimi*’s application, noting 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.”” *Dubois*, 139 F.3d at 893. *See also Farrier*, 2025 WL 2779326, at *3 (“*Bruen* and *Rahimi* never discussed our precedent on section 922(g)(1) and did not otherwise comment on the precise issue before the *Rozier* court” (cleaned up)).

Dubois squarely denied “that the Supreme Court nevertheless abrogated *Rozier* when *Rahimi* rejected the argument that someone ‘may be disarmed simply because he is not “responsible.””” *Dubois*, 139 F.3d at 893-94. “Nothing in *Rozier* suggested that ‘whether one is qualified to possess a firearm’ turns on whether that person is responsible.... Indeed, the word ‘responsible’ does not appear in our opinion.” *Id.* at 893.

That felons are “people” is not in dispute. “[B]eing a member of ‘the people’ to whom the Second Amendment applies as a general matter is a *necessary* condition to enjoyment of the right to keep and bear arms, but it is not alone *sufficient*.” *United States v. Jimenez-Shilon*, 34 F.4th 1042, 1044 (11th Cir. 2022) (emphasis in original). The Second Amendment protects “a pre-existing right ... and that right’s particular history demonstrates that it extended (and thus extends) to some categories of individuals, but not others.” *Id.* (cleaned up). *Jimenez-Shilon* explained that “certain groups of people—even those who might be among ‘the people’—may be ‘disqualified from’ possessing arms without violating the Second Amendment.” 34 F.4th at 1044. Only those people with a pre-existing right to bear arms had that right

protected by the Second Amendment, and *Rozier* held that felons categorically did not enjoy that right.

Again just recently, in *Fla. Comm’r of Agric.*, this Court distinguished the Second Amendment rights of felons from those of non-felons. Acknowledging *Dubois*’s exclusion of felons, the Court noted the lack of “any authority [standing] for the proposition that misdemeanants are not among the people who enjoy the right to bear arms as protected by the Second Amendment.” 148 F.4th at 1317. Beaubrun’s extensive felony history distinguishes his case from the misdemeanants protected in *Fla. Comm’r of Agric.*

Rahimi’s clarification of *Bruen*’s historical inquiry could not have “demolish[ed]” or “eviscerate[d]” *Rozier*’s “fundamental props,” as Beaubrun has to show, because *Rozier* “never actually applied the [earlier] means-end-scrutiny step” that *Bruen* displaced. *See Dubois*, 94 F.4th at 1292-93 (citing *Jimenez-Shilon*, 34 F.4th at 1052-53 (Newsom, J., concurring)). Instead, *Rozier* ruled on the threshold matter that felons categorically were a “certain class[] of people” without firearm possession rights protected by the Second Amendment. 598 F.3d at 771. Felon firearm bans survive Second Amendment challenge “under any and all circumstances.” *Id.*

Since *Rahimi* and *Bondi*, this Court has continued to treat the constitutionality of § 922(g)(1) as settled law, rejecting both facial and as-applied challenges. *See*

United States v. Whitaker, No. 24-10693, 2025 WL 1892566, at *2 (11th Cir. July 9, 2025). This Court has “grant[ed] summary affirmance ... because it is clearly right as a matter of law that § 922(g)(1) doesn’t violate the Second Amendment.” *Id.*

CONCLUSION

Summary disposition is appropriate because binding precedent precludes Beaubrun’s arguments. If he believes *Dubois* wrongly applied this Court’s or the Supreme Court’s earlier decisions, his remedy is to seek *en banc* rehearing with this Court or review by the Supreme Court. In the meantime, the district court’s decision should be summarily affirmed.

Respectfully submitted,

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Certificate of Compliance

This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 1,806 words, excluding the parts of the motion exempted by Fed. R. App. P. 27(a)(2)(B).

Certificate of Service

I HEREBY CERTIFY that on October 14, 2025, a true copy of the foregoing was filed electronically with the Eleventh Circuit Court of Appeals' Internet web at www.ca11.uscourts.gov using CM/ECF, and electronically served on Assistant Federal Public Defender M. Caroline McCrae, Counsel for Beaubrun.

/s/ Jonathan D. Colan
Jonathan D. Colan
Senior Appellate Attorney

A-3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 24CR 80162 *Middlebrooks/*
Mattheussen
18 U.S.C. § 922(g)(1)
18 U.S.C. § 924(e)
18 U.S.C. § 924(d)(1)

UNITED STATES OF AMERICA

vs.

DIMITRI BEAUBRUN,

Defendant.

FILED BY *SW* D.C.
DEC 17 2024
ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S.D. OF FLA. - W.P.B.

INDICTMENT

The Grand Jury charges that:

On or about August 17, 2024, in Palm Beach County, in the Southern District of Florida,
the defendant,

DIMITRI BEAUBRUN,

knowingly possessed a firearm and ammunition, in and affecting interstate and foreign commerce,
knowing that he had previously been convicted of a crime punishable by imprisonment for a term
exceeding one year, in violation of Title 18, United States Code, Section 922(g)(1) and 924(e).

It is further alleged that the firearm and ammunition are:

- a.) One (1) Hi-Point, Model C9, 9 mm semi-automatic pistol,
- b.) Three (3) rounds of Winchester 9 mm caliber ammunition, and
- c.) Six (6) rounds of Western Cartridge Company 9 mm caliber ammunition.

Pursuant to Title 18, United States Code, Section 924(e), it is further alleged that before
defendant **DIMITRI BEAUBRUN** committed the offense charged in this count, **DIMITRI**
BEAUBRUN had at least three previous convictions for offenses committed on occasions
different from one another.

FORFEITURE ALLEGATIONS


1. The allegations of this Indictment are hereby re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant, **DIMITRI BEAUBRUN**, has an interest.

2. Upon conviction of a violation of Title 18, United States Code, Section 922(g), or any other criminal law of the United States, as alleged in this Indictment, the defendant shall forfeit to the United States any firearm and ammunition involved in or used in the commission of such offense, pursuant to Title 18, United States Code, Section 924(d)(1).

All pursuant to Title 18, United States Code, Section 924(d)(1) and the procedures set forth at Title 21, United States Code, Section 853, as incorporated by Title 28, United States Code, Section 2461(c).

A TRUE BILL

FOREPERSON


MARKENZKY LAPOINTE
UNITED STATES ATTORNEY


DANIEL E. FUNK
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO.: 24CR80162 Middlebrooks/
Matthewman

v.

DIMITRI BEAUBRUN,

CERTIFICATE OF TRIAL ATTORNEY

Defendant.

Superseding Case Information:

Court Division (select one)

New Defendant(s) (Yes or No) _____

- Miami Key West FTP
- FTL WPB

Number of New Defendants _____

Total number of new counts _____

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, 28 U.S.C. §3161.

3. Interpreter: (Yes or No) No
List language and/or dialect: _____

4. This case will take 3 days for the parties to try.

5. Please check appropriate category and type of offense listed below:

(Check only one)

(Check only one)

- | | | | | |
|-----|-------------------------------------|------------------|-------------------------------------|-------------|
| I | <input checked="" type="checkbox"/> | 0 to 5 days | <input type="checkbox"/> | Petty |
| II | <input type="checkbox"/> | 6 to 10 days | <input type="checkbox"/> | Minor |
| III | <input type="checkbox"/> | 11 to 20 days | <input type="checkbox"/> | Misdemeanor |
| IV | <input type="checkbox"/> | 21 to 60 days | <input checked="" type="checkbox"/> | Felony |
| V | <input type="checkbox"/> | 61 days and over | | |

6. Has this case been previously filed in this District Court? (Yes or No) No
If yes, Judge _____ Case No. _____

7. Has a complaint been filed in this matter? (Yes or No) No
If yes, _____ Magistrate Case No. _____

8. Does this case relate to a previously filed matter in this District Court? (Yes or No) No
If yes, Judge _____ Case No. _____

9. Defendant(s) in federal custody as of _____

10. Defendant(s) in state custody as of _____

11. Rule 20 from the _____ District of _____

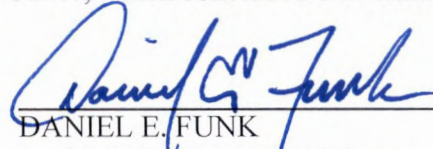
12. Is this a potential death penalty case? (Yes or No) No

13. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to August 8, 2014 (Mag. Judge Shaniek Mills Maynard)? (Yes or No) No

14. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to October 3, 2019 (Mag. Judge Jared M. Strauss)? (Yes or No) No

15. Did this matter involve the participation of or consultation with Magistrate Judge Eduardo I. Sanchez during his tenure at the U.S. Attorney's Office, which concluded on January 22, 2023? No

16. Did this matter involve the participation of or consultation with Magistrate Judge Marty Fulgueira Elfenbein during her tenure at the U.S. Attorney's Office, which concluded on March 5, 2024? No

By: 
 DANIEL E. FUNK
 Assistant United States Attorney
 FL Bar No. 0592501

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: DIMITRI BEAUBRUN

Case No: 24CR80162 Middlebrooks/Matthewman

Count #1:

Felon in Possession of a Firearm and Ammunition (Armed Career Criminal Act), in violation of

Title 18, United States Code, Sections 922(g)(1) and 924(e)

- * Max. Term of Imprisonment: Life
- * Mandatory Min. Term of Imprisonment (if applicable): 15 years
- * Max. Supervised Release: 5 years
- * Max. Fine: \$250,000

*Refers only to possible term of incarceration, supervised release and fines. It does not include restitution, special assessments, parole terms, or forfeitures that may be applicable.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 24-CR-80162-MIDDLEBROOKS

UNITED STATES OF AMERICA,
Plaintiff,

v.

DIMITRI BEAUBRUN,
Defendant.

_____ /

MOTION TO DISMISS INDICTMENT

Dimitri Beaubrun, through undersigned counsel, files this motion pursuant to Fed. R. Crim. P. 12(b) to dismiss the one count indictment as unconstitutional under the Second Amendment as applied to him, pursuant to the Supreme Court's decision in *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), as clarified in *United States v. Rahimi*, 602 U.S. 680, 144 S.Ct. 1889 (2024). In support thereof, he states:

Factual and Legal Background

Mr. Beaubrun is charged by indictment in the above styled matter with being a felon in possession of a firearm and ammunition in violation of 18 U.S.C. 922(g). (DE 1). Mr. Beaubrun's alleged felony criminal history consists of convictions for sale, trafficking, and possession with intent to sell narcotics and constructive possession of a firearm or ammunition. Importantly, Mr. Beaubrun has never been convicted as an adult of any violent offenses. For the reasons set forth in Part C.4 below, this Court should hold § 922(g)(1) unconstitutional on its face and *as applied* to Mr. Beaubrun

after *Bruen/Rahimi*.

ARGUMENT

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.” U.S. CONST. amend. II. In *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022) the Supreme Court for the first time set forth a general test for assessing the constitutionality of all firearm regulations going forward. At Step One of *Bruen*’s Second Amendment test, courts may consider *only* whether “the Second Amendment’s plain text covers an individual’s conduct.” 597 U.S. at 17. If it does, *Bruen* held, “the Constitution presumptively protects that conduct.” *Id.* And, regulating presumptively protected conduct is unconstitutional unless the government, at Step Two of the analysis, can “justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation”—that is, the tradition in existence “when the Bill of Rights was adopted in 1791.” *Id.* at 37. Here, because Mr. Beaubrun’s alleged conduct is covered by the plain text of the Second Amendment, and the government cannot show § 922(g)(1) on its face or as applied to him is consistent with America’s historical tradition of firearm regulation—given his non-violent prior convictions—the indictment must be dismissed.

A. As confirmed by *Rahimi*, *Bruen* dictates a completely different mode of Second Amendment analysis

Just after *District of Columbia v. Heller*, 554 U.S. 570 (2008), but before the clarification of *Heller*'s text-and-history approach in *Bruen*, in *United States v. Rozier*, 598 F.3d 768 (11th Cir. 2010) the Eleventh Circuit held “statutes disqualifying felons from possessing a firearm under any and all circumstances do not offend the Second Amendment.” 598 F.3d at 771. Notably, *Rozier* reached that conclusion without considering the Second Amendment’s plain text. 554 U.S. at 579-81. Moreover, *Rozier* also failed to engage in the type of meticulous historical analysis dictated by both *Heller* and *Bruen* (and now *Rahimi*). Instead, *Rozier* relied entirely upon dicta in *Heller* about “presumptively lawful” “longstanding prohibitions” against felons possessing firearms. Compare *Heller*, 554 U.S. at 626-27 & n. 26 (“Although we do not undertake an exhaustive historical analysis today of the full scope of the Second Amendment”) with *Rozier*, 598 F.3d at 768 (ignoring the latter caveat).

Thereafter, post-*Bruen* but prior to *Rahimi*, the Eleventh Circuit in *United States v. Dubois*, 94 F.4th 1284 (11th Cir. 2024) continued to follow the pre-*Bruen* approach of *Rozier*. The *Dubois* Court cited, as determinative, the dicta from *Heller* cited *supra*. See *Dubois*, *id.* at 1291-93 (stating the Supreme Court “made it clear” in *Heller*, *id.* at 626-27 & n. 26, that its holding “did not cast doubt” on felon-in-possession prohibitions,” which were “presumptively lawful”). Importantly, though, the *Dubois* Court *did* leave the door open to reconsideration after *Rahimi*, by stating: “We require clearer instruction from the Supreme Court before we may reconsider the constitutionality of section 922(g)(1).” 94 F.4th at 1293. And indeed, in *Rahimi*,

the Supreme Court provided very clear instruction on the post-*Bruen* required methodology—instruction that directly undercuts the assumptions, reasoning, and approach of both *Rozier* and *Dubois*. After *Rahimi*, neither *Rozier* nor *Dubois* can “foreclose” Mr. Beaubrun’s post-*Bruen* challenge, for multiple reasons.

First, the Supreme Court made undeniably clear in *Rahimi* that (1) *Bruen* indeed set forth a new methodology that lower courts must follow, and (2) *Rahimi* “clarified” that methodology. Every member of the Court agreed on those points. *See* 144 S.Ct. at 1891 (Roberts, C.J., writing for the majority). Neither *Rozier* nor *Dubois* complied with *Bruen*’s later-announced, text-and-historical tradition methodology. Neither *Rozier* nor *Dubois* considered the text of the Second Amendment, as both *Heller* and *Bruen* mandated. Nor did they require the government to identify any Founding era analogues as *Bruen* newly-mandated and *Rahimi* confirmed is indeed now the law. *See* Part C *infra*. Rather, *Dubois* adhered rigidly to *Rozier* which had avoided all textual and historical analysis by following *Heller*’s dicta on “presumptively lawful” purportedly “longstanding prohibitions.” That dicta-based approach is *not* permitted after *Bruen* and *Rahimi*.

Second, and relatedly, the *Rahimi* Court squarely “reject[ed] the Government’s contention” that legislatures can disarm anyone who is not “responsible.” 144 S.Ct. at 1903. Yet *Dubois* expressly accepted that now-definitively-rejected contention. *See* 94 F.4th at 1293. At oral argument in *Rahimi*, the government argued the word “responsible,” as used in *Heller* and *Bruen*, meant “non-dangerous.” *See* Tr. of Oral

Argument, *United States v. Rahimi*, 2023 WL 9375567, at *11 (U.S. Nov. 7, 2023) (government's position was there is "no daylight" between "not responsible and dangerous;" arguing the Court used the term "responsible" previously to "identify" those whose possession of firearms presents an unusual danger").

But *Rahimi* rejected that. The Court declared the term "responsible," advanced by the government to be "vague," and *not* "derive[d] from our case law." 144 S.Ct. at 1903. While *Heller* and *Bruen* did use the term "responsible," they did so simply to "describe the class of ordinary citizens who undoubtedly enjoy the Second Amendment right." Those opinions "said nothing about the status of citizens who were not 'responsible,'" because "[t]he question was simply not presented." *Id.* Importantly, the government derived its proffered "responsible" limitation in *Rahimi* from the same place it has derived its supposed rule for § 922(g)(1) that "non-law-abiding" people can be disarmed: passages in *Heller* and *Bruen* that use those words. Notably, although the government's focus at the *Rahimi* oral argument narrowed to the term "responsible," in its briefing it specifically argued that, as interpreted in *Heller* and *Bruen*, "The Second Amendment Allows Congress to Disarm Persons Who Are Not *Law-Abiding*, Responsible Citizens." Government's Brief, *United States v. Rahimi*, 2023 WL 5322645, at **10-13 (U.S. Aug. 14, 2023) (emphasis added); Government's Reply Brief, *Rahimi*, 2023 WL 716695, at **6-14 (U.S. Oct. 25, 2023) (same). Accordingly, if "responsible" is out as a limiting Second Amendment principle for the reasons explained by the *Rahimi* majority, "law-abiding" is necessarily out as

well. *Rahimi* puts the “law-abiding, responsible citizen” principle advanced by the government, and expressly followed by *Dubois*, to rest once and for all.

The Eleventh Circuit has drawn a clear distinction between “dicta” and the actual “holding” of a case. See *United States v Kaley*, 579 F.3d 1246, 1253 n.10 (11th Cir. 2009); *Edwards v. Prime, Inc.*, 602 F.3d 1276, 1298 (11th Cir. 2010). Given that precedent, this brief allusion to *Heller*’s dicta, which was not in any way necessary to *Rahimi*’s ultimate holding, cannot be over-read. Notably, Justice Thomas was clear in his *Rahimi* dissent, and no one in the majority disagreed, that the “passing reference in *Heller* to laws banning felons and others from possessing firearms” was indeed “dicta.” 144 S.Ct. at 1944, at n.7 (Thomas, J., dissenting). And *Bruen*, Justice Thomas confirmed, used the phrase “ordinary, law-abiding citizens” merely to describe those who were unable to publically carry a firearm in New York.” *Id.*

With that confirmation from the author of *Bruen* as to what was meant by the language followed in *Dubois*, *Rahimi*’s single reference to *Heller*’s dicta cannot now save *Dubois*. The approach and holding of *Rozier/Dubois* has been “undermined to the point of abrogation” by *Bruen* and *Rahimi*. See *United States v. Archer*, 531 F.3d 1347, 1352 (11th Cir. 2008) (where the Supreme Court sets forth a new “mode of analysis,” it “undermines to the point of abrogation” prior circuit precedent analyzing the same or even related legal questions under a different “mode of analysis”). *Archer* confirms *Rozier* did *not* survive *Bruen*. And it now additionally confirms *Dubois* has not survived *Rahimi*. *Rozier*’s “Step One” was *not* in any way comparable

to the new *Bruen* Step One. *Bruen* changed the threshold inquiry for all Second Amendment claims to be exclusively about “plain text.” No history can be considered at Step One—and dicta about history has no relevance at any step of *Bruen*. History comes into play only at Step Two of *Bruen*’s inquiry, where the government must show similar laws dating to the Founding.

Notably, post-*Bruen* but prior to *Rahimi*, the Tenth Circuit—like the Eleventh Circuit in *Dubois*—continued to adhere to a pre-*Bruen* precedent analogous to *Rozier* resting “solely” on dicta in *Heller* that “appeared to recognize the constitutionality of longstanding prohibitions on possession of firearms by convicted felons.” *Vincent v. Garland*, 80 F.4th 1197, 1201 (10th Cir. 2023) (finding *Bruen* did not abrogate *United States v. McCane*, 573 F.3d 1037, 1047 (10th Cir. 2009)). Vincent sought certiorari, arguing the Tenth Circuit “did not apply *Bruen*’s text, history, and tradition test,” but instead “relied on pre-*Bruen* circuit precedent, which was based on dicta from *Heller*.” Brief for the Petitioner, *Vincent v. Garland*, at 5 (U.S. Dec. 21, 2023) (No. 23-683).

Once *Rahimi* issued, the Solicitor asked the Court to grant plenary review in either *Vincent* or *Garland v. Range*, No. 23-374, and two Eighth Circuit cases, as these cases involved different felonies that would “enable the Court to consider Section 922(g)(1)’s constitutionality across a range of circumstances.” Supplemental Brief for the Federal Parties, *Garland v. Range, et al.*, at 5 (U.S. June 24, 2024). However, the Solicitor argued, *if* the Court did not do so, it should GVR in *Range*, but *deny* the petitions in *Vincent* and the other cases. *Id.* at 8.

But the Supreme Court disagreed. It GVR'd in all of these cases, remanding “for further consideration in light of *Rahimi*.” *Vincent v. Garland*, 144 S.Ct. 2708, 219 L. Ed. 2d 1314 (2024); *see also Jackson v. United States*, 144 S.Ct. 2710, 219 L. Ed. 2d 1316 (2024). The GVR in *Vincent*, over the express objection of the Solicitor General, is particularly significant here because it confirms *Dubois* has not survived *Rahimi*. If pre-*Bruen* precedents like *McCane* and *Rozier* continued to control Second Amendment review post-*Bruen* with no additional analysis necessary even after *Rahimi*, the Court would have denied certiorari in *Vincent* as the Solicitor requested. It GVR'd instead.

Finally, and related to the above point, it is not merely the GVR in *Vincent* and the Eighth Circuit cases that prove the point that post-*Bruen* as-applied challenges are cognizable and must be taken seriously after *Rahimi*. Even *if Dubois could* be read to reject every possible as-applied post-*Bruen* challenge to § 922(g)(1) that position was squarely rejected by the Court itself in *Rahimi*. In holding that *Rahimi*'s facial challenge failed because the statute “is constitutional as applied to the facts of *Rahimi*'s own case,” 144 S.Ct. at 1898, the Supreme Court necessarily and squarely rejected the position the government took at the *Rahimi* oral argument that as-applied challenges are unavailable in Second Amendment cases “if and when they come.” 2023 WL 9375567, at *43. In fact, in making clear that the “no set of circumstances” standard from *United States v. Salerno*, 481 U.S. 739, 745 (1987) indeed applies to Second Amendment challenges, the Supreme Court necessarily

recognized that as-applied Second Amendment challenges *are* permitted. *See id.*

Notably, although an as-applied challenge to § 922(g)(1) was not before the Court in *Rahimi*, at the oral argument Justice Gorsuch stated in response to the government’s now-provably-wrong assertion that the Court should never entertain as-applied Second Amendment challenges, that there may indeed “be an as-applied *if it’s a lifetime ban.*” 2023 WL 9375567, at 43. And that—of course—is the exact issue before the Court here.

B. *Bruen* Step One: The Second Amendment’s “plain text” protects Mr. Beaubrun’s possession of handguns and ammunition.

Applying *Bruen*’s newly-defined first step for Second Amendment analysis, 597 U.S. at 17, the Court should hold that the Second Amendment’s “plain text” covers Mr. Beaubrun and his conduct. The Second Amendment’s operative clause contains only three elements, guaranteeing the right (1) “of the people,” (2) “to keep and bear,” (3) “arms.” *Heller*, 554 U.S. at 579-95. And Mr. Beaubrun and his conduct fall squarely within these elements.

The Supreme Court was clear in *Heller* that “the people” as used in the Second Amendment “unambiguously refers” at the very least to “*all Americans*”—“not an unspecified subset”—because any other interpretation would be inconsistent with the Court’s interpretation of the same phrase in the First, Fourth, Ninth, and Tenth Amendments. *Id.* at 579-81 (citing *United States v. Verdugo-Urquidez*, 494 U.S. 259, 265 (1990) (“the people” was a “term of art” at the time)).

The Second Amendment does not draw a felon/non-felon distinction. Indeed, even prior to *Bruen* the Eleventh Circuit and others had recognized that the term “people” in the Second Amendment is *not* textually limited to law-abiding citizens. See *United States v. Jimenez-Shilon*, 34 F.4th 1042, 1046 (11th Cir. 2022) (noting that even “dangerous felons” are “indisputably part of ‘the people’” for Second Amendment purposes); see also *United States v. Meza-Rodriguez*, 798 F.3d 664, 671 (7th Cir. 2015) (a person is among “the people” regardless of criminal record).

But indeed, *if* there even *could* have been doubt on that point prior to *Rahimi*, there clearly *cannot* be after *Rahimi*. As explained in Part A *supra*, *Rahimi* squarely rejected the Solicitor General’s proffered limitation of “the people” to the narrower subset of “law-abiding, responsible” citizens. Although the *Rahimi* majority confirmed the Second Amendment “secures *for Americans* a means of self-defense,” *id.* at 1897 (emphasis added), Justice Thomas supported that with a robust explanation of the proper Step One analysis, confirming that *any American citizen* is among “the people” as a matter of the plain text. 144 S.Ct. at 1933 (“The Second Amendment thus recognizes a right ‘guaranteed to “*all Americans*;”’ citing *Bruen*, 597 U.S. at 70, and *Heller*, 554 U.S. at 581) (emphasis added).

Justice Thomas left no doubt about the implication of *Heller/Bruen/Rahimi* for “the people” question in § 922(g)(1), by confirming that “Not a single Member of the Court adopts the Government’s [law-abiding, responsible citizen] theory.” 144 S.Ct. at 1944. In short, as Justice Thomas has definitively exposed, the “law-abiding,

responsible citizen” theory unanimously rejected by *Rahimi* “is the Government’s own creation, designed to justify every one of its existing regulations. It has no doctrinal or constitutional mooring.” *Id.* at 1945. And since that necessarily abrogates the assumptions underlying *Rozier/Dubois*, *Rahimi* compels the conclusion that the Supreme Court indeed meant what it said when it declared in *Heller* that the Second Amendment right “belongs to all Americans.” 554 U.S. at 581.

C. *Bruen* Step Two: The government cannot meet its burden because there is no historical tradition of lifetime disarmament of someone like Mr. Beaubrun.

Admittedly, that the Second Amendment protects all Americans does not mean that the right to bear arms is “unlimited.” *Bruen*, 597 U.S. 21. *Kanter*, 919 F.3d at 452 (Barrett, J., dissenting). *Bruen* established strict rules for determining in what circumstances those pre-existing Second Amendment rights may be “stripped.” Specifically, the Court held, where as here an individual’s conduct is presumptively protected by the Second Amendment’s plain text, a regulation restricting that fundamental right can only stand where the Government shows it “is consistent with the Nation’s historical tradition of firearm regulation,” that is, the tradition in existence “when the Bill of Rights was adopted in 1791.” *Bruen*, 597 U.S. at 37.

And here, the government cannot meet that burden as to § 922(g)(1) generally, or as to Mr. Beaubrun in particular who has only been convicted of non-violent offenses, because there were no Founding-era laws specifically disarming *any* citizens or category of citizens *for life*.

As a preliminary matter, *Bruen* prescribed two ways of conducting the required historical tradition inquiry. Where a modern statute is directed at a “longstanding” problem that “has persisted since the 18th century,” *Bruen* directed a “straightforward” inquiry: if there is no historical tradition of “distinctly similar” regulation, the regulation is unconstitutional. *Id.* at 26-28 (conducting this “straightforward” inquiry to strike down New York’s restriction on public carry of firearms). However, if the statute is directed at “unprecedented societal concerns or dramatic technological changes,” or problems “unimaginable at the founding,” then and only then *Bruen* held, are courts empowered to reason “by analogy.” *Id.* at 2132. Courts in such a case ask only whether historical analogues are “*relevantly* similar.” *Id.* (emphasis added). Notably, the “central considerations” in a “relevantly similar” inquiry are what *Bruen* called the “*how and why*:” “whether modern and historical regulations impose a *comparable burden* on the right of armed self-defense and whether that burden is *comparably justified*.” *Id.* at 2133 (emphasis added).

If there were any lack of clarity about this prior to *Rahimi*, the Supreme Court confirmed in *Rahimi* that *both* a comparable burden *and* a comparable justification for Founding-era regulations are required in a “relevantly similar” analysis; a comparable justification alone does *not* suffice. *See* 144 S.Ct. at 1899-1902 (finding, from among the multitude of purported “analogues” the government proffered in its brief, *see* 2023 WL 5322645, at **13-27, that *only* “*two distinct legal regimes*” “*specifically addressed firearms violence*”—namely, only the surety and going-armed

laws were “‘relevantly similar’ *in both why and how it burdens* the Second Amendment;” explaining “the penalty” is “another relevant aspect of the burden,” and “[t]he burden that Section 922(g)(8) imposes on the right to bear arms also fits within the Nation’s regulatory tradition”) (emphasis added); *see also id.* at 1907 (Gorsuch, J., concurring) (reiterating the important methodological point that the government must show *both* a “comparable justification” *and* a comparable burden”).

In choosing between *Bruen*’s two historical tradition standards here, the Court should note that in contrast to the modern problem of gun violence by domestic abusers which *Rahimi* analyzed under the “relevantly similar” standard, *see* 144 S.Ct. at 1898, the colonies were heavily populated with felons sent from England in 1791, and thus, the problem of felon gun violence addressed by §922(g)(1) was “longstanding.”¹ Thus, the Court should rightly analyze § 922(g)(1) under the “straightforward” analysis used in both *Heller* and *Bruen*, where the challenged statutes likewise aimed to prevent interpersonal gun violence. *See id.* at 1932 (Thomas, J., dissenting). However, even *if* the Court were to employ the more nuanced “relevantly similar” analysis used in *Rahimi* to assess whether the government has met its burden to “establish the relevant tradition of regulation” for

¹ *See, e.g.*, Encyclopedia Virginia, “Convict Labor during the Colonial Period,” *available at* encyclopediavirginia.org/entries/convict-labor-during-the-colonial-period/ (last accessed Feb. 20, 2025) (noting that as of 1776, Virginia alone housed at least 20,000 British convicts). Notably, in 1751, Ben Franklin even wrote a satirical article entitled “Rattle-Snakes for Felons,” criticizing the way England had been ridding itself of its felons by sending them to the colonies to grow their population, and suggesting that rattlesnakes be sent back to England as “suitable returns for the human serpents sent us by our Mother Country.” Bob Ruppert, “The Rattlesnake Tells the Story,” *Journal of the American Revolution* (Jan. 2015).

§ 922(g)(1), *Bruen* dictates—and *Rahimi* confirms—that this Court must hold the government to four additional rules:

First, to establish a true “*tradition*” of “historical regulation,” the government must point to *actual early regulations*, that is, laws or statutes—not proposals or vague “understandings” never enacted into law. *See Rahimi*, 144 S.Ct. at 1898 (focusing on the burdens imposed by “regulations” and “laws at the founding”); *id.* at 1936 (Thomas, J., dissenting) (explaining that under *Bruen*, rejected proposals “carry little interpretive weight”).

Second, the government must then show that the same type of regulation was actually *prevalent* in the country at the Founding, that is, that the firearm regulation(s) on which it relies were “well-established and representative.” “[A] single law in a single State” is not enough; instead, a “widespread” historical practice “broadly *prohibiting*” the conduct in question is required. *Bruen*, 597 U.S. at 36, 38, 46, 65 (expressing doubt that regulations in even *three* of the thirteen colonies “could suffice”) (emphasis added).

Third, a “*longstanding*” tradition is required, and that accounts for time. Per *Bruen*, “when it comes to interpreting the Constitution, not all history is created equal” because “Constitutional rights are enshrined with the scope they were understood to have when the people adopted them,” which in the case of the Second Amendment, was in 1791. *Id.* at 34. Courts must “guard against giving

postenactment history more weight than it can rightly bear.” *Id.* at 35. As the historical evidence moves past 1791, the less probative it becomes.

Finally, the government “bears the burden” of “affirmatively prov[ing] 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. Consistent with “the principle of party presentation,” courts are “entitled to decide a case based on the historical record compiled by the parties.” *Id.* at 25, n. 6. They “are not obliged to sift the historical materials for evidence to sustain [a] statute.” *Id.* at 60. If “history [is] ambiguous at best,” the statute is unconstitutional. *Id.* at 39-40.

The government cannot meet its *Bruen* Step Two burden in this case for multiple reasons. *First*, Federal law has only included a general prohibition on firearm possession by individuals convicted of crimes punishable by over a year—meaning, *for all felons—since 1961*. See Act To Strengthen The Federal Firearms Act, Pub. L. No. 87-342, 75 Stat. 757 (1961). And, a law passed 170 years after the Second Amendment’s ratification cannot meet the “longstanding” requirement of *Bruen*. See *id.* at 36-37 (emphasizing that “belated innovations” from the 20th century “come too late to provide insight into the meaning of the Constitution in [1791];” citing with approval the Chief Justice’s dissent in *Sprint Communications Co. v. APCC Services, Inc.*, 554 U.S. 269, 312 (2008)); see also *Bruen, id.* at 66 n.28 (declining to address any of the presented 20th century historical evidence).

Second, even the earliest version of § 922(g)(1), which applied exclusively to certain types of *violent criminals*, and prohibited them from “*receiving*” firearms, was only enacted *in 1938*, well after the Bill of Rights was adopted (1791)—and also, to the extent it is relevant, well after the Fourteenth Amendment was enacted (1868). See The Federal Firearms Act of 1938, Pub. L. No. 75-785, §§ 1(6), 2(f), 52 Stat. 1250, 1250–51 (1938). It was not until even later—*1968*—that Congress gave § 922(g)(1) its current form, prohibiting *all felons* from *possessing* firearms.

Third, as scholars and historians have long pointed out, “no colonial or state law in eighteenth century America formally restricted”—much less prohibited, *permanently and under pain of criminal punishment*—“the ability of felons to own firearms.”² Indeed, even before *Bruen*, judges—including then-Judge Barrett in *Kanter*—had so recognized. See 919 F.3d at 451, 458 (Barrett, J., dissenting) (“Founding-era legislatures did not strip felons of the right to bear arms simply because of their status as felons,” and “no[] historical practice supports a legislative power to categorically disarm felons because of their status as felons”).

Finally, the lack of any longstanding tradition in this country of permanently disarming felons may well be explicable by the fact that at the Founding, felons—unlike many other classes of citizens in the country—were *not* exempted from militia

²Carlton F.W. Larson, *Four Exceptions in Search of a Theory: District of Columbia v. Heller and Judicial Ipse Dixit*, 60 Hastings L.J. 1371, 1374 (2009); accord C. Kevin Marshall, *Why Can't Martha Stewart Have A Gun?*, 32 Harv. J.L. & Pub. Pol'y 695, 708 (2009); Royce de R. Barondes, *The Odious Intellectual Company of Authority Restricting Second Amendment Rights to the “Virtuous”*, 25 Tex. Rev. L. & Pol. 245, 291 (2021); Adam Winkler, *Heller's Catch-22*, 56 UCLA L. Rev. 1551, 1563 (2009).

service. And indeed, as militia members, they were not simply *permitted* to possess arms; they were actually *required* to purchase and possess arms for militia service. *See* Federal Militia Act of May 8, 1792, §§ 1-2, 1 Stat. 272 (“each and every free able-bodied white male citizen of the respective states, resident therein, who is or shall be of the age of eighteen years, and under the age of forty-five years ... *shall* severally and respectively be enrolled in the militia, and that every citizen so enrolled “*shall*, within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt,” and various other firearm accoutrements, including ammunition; exempting many classes of people from this requirement—such as “all custom-house officers”—but *not* felons). Moreover, the militia statutes of eight states (Pennsylvania, Massachusetts, New York, Georgia, New Hampshire, Delaware, Maryland and Connecticut), passed shortly before or after 1791, contained similar requirements, and similarly did not exempt felons.³ Given this historical evidence, the government cannot show a historical tradition of gun regulation either “distinctly” or “relevantly” similar to § 922(g)(1).

Even *if* the government is permitted to reason “by analogy” under the “relevantly similar” standard from *Rahimi*, it still cannot meet its heavy burden here

³ *See* Mitchell, Statutes at Large of Pennsylvania, Act of March 20, 1780, §§ III, XXI, at 146, 154 (1700-1809); Wright and Potter, 7 Acts and Laws of the Commonwealth of Massachusetts, 1780-1805, ch. 14, at 381-82, 389-90 (1898); Thomas Greenleaf, Laws of the State of New-York, Act of April 4, 1786, at 227-28, 232-33 (1792); Marbury, Digest of Laws of the State of Georgia, Act of December 24, 1792, §§ 9-10, at 350 (1802); Constitution and Laws of the State of New-Hampshire, Act of Dec. 28, 1792, at 251-52, 256 (1805); Laws of the State of Delaware, ch. XXXVI, §§ 1, 2, 4, at 1134-36 (1797); Herty, Digest of the Laws of Maryland, “Militia,” §§ 7, 15, 19, 20, at 367-70 (1799); and Public Statute Laws of the State of Connecticut, Title CXII, ch. I, §§ 1, 10, at 499-500, 505-06 (1808).

because there was no historical tradition of *any* analogous regulation in the Founding era that was *not only* “comparably justified” to § 922(g)(1), *but also* posed a “comparable burden” (*lifetime disarmament*), as *Bruen/Rahimi* requires.

The surety and going-armed statutes that *Rahimi* found proper “analogues” to the temporary ban in § 922(g)(8)(C)(i) based on a “credible threat,” are *not* proper analogues for the lifetime ban for any and all felons in § 922(g)(1)—for obvious reasons. As a threshold matter, § 922(g)(8)(C)(i) “restricts gun use to mitigate demonstrated threats of physical violence” and applies only once a court has made an individualized finding that “a credible threat” exists. *Rahimi*, 144 S.Ct. at 1901. By contrast, § 922(g)(1) is a categorical ban, prohibiting every person convicted of a felony from possessing a gun—without an individualized finding and whether or not they threaten others. And although a person subject to a surety bond received “significant procedural protections” and “could obtain an exception if he needed his arms for self-defense,” *id.* at 1900, that is never allowed for a felon.

Importantly for the *Bruen/Rahimi* “comparable justification” analysis, surety statutes were intended to mitigate “demonstrated threats of physical violence”—just like § 922(g)(8)—which is why they required “individualized” findings. 144 S.Ct. at 1899, 1901. But § 922(g)(1) contains *no* requirement that someone pose a threat. And “going-armed” laws likewise specifically “provided a mechanism for punishing those who had menaced others with firearms.” *Id.* at 1900-01. Indeed, “going-armed” laws specifically required a judicial determination that “a particular defendant ... had

threatened another with a weapon. Id. at 1902 (emphasis added). In other words, both of these early legal regimes criminalized specific—and serious—misconduct with a gun either in the past, or expected in the near future. Section 922(g)(1), on the other hand, bans a category of people from possessing firearms whether or not they have “terrif[ied] the good people of the land,” *id.* at 1901.

Finally, and important for the separately-required “comparable burden” analysis—the “how” metric in *Bruen*—the Supreme Court was clear in *Rahimi* that the “penalty” is an important component of the burden imposed by a statute. *Id.* at 1902. That is why the Court repeatedly underscored that § 922(g)(8)’s restriction is “temporary”—it exists only “so long as the defendant ‘is’ subject to a restraining order.” *Id.* at 1902. And of course, in stark contrast, § 922(g)(1)’s categorical ban is *for life*. Thus both analogue regimes *Rahimi* relied on to hold § 922(g)(8) fits within our Nation’s tradition of firearm regulation are distinguishable in both the “why” and the “how” from § 922(g)(1). They therefore cannot serve as proper analogues for upholding § 922(g)(1) here.

In a facial challenge, the defendant must prove there are no set of circumstances in which the law could be applied constitutionally. *United States v. Pugh*, 90 F.4th 1318, 1325 (11th Cir. 2024); *accord Rahimi*, 144 S.Ct. at 1898 (citing *Salerno*, 481 U.S. at 745). But in an as-applied challenge, a defendant seeks only to vindicate his constitutional rights. Thus, the Court need only determine whether a statute is unconstitutional on the facts of a particular case, or in application to the

defendant. *McGuire v. Marshall*, 50 F.4th 986, 1003 (11th Cir. 2022).

The as-applied issue in this case can be easily disposed of with a fact-based ruling that there is no historical tradition to support application of § 922(g)(1) as to Mr. Beaubrun, who has only been convicted of non-violent crimes. And there is ***no tradition*** in this country to support permanent disarmament of such an individual. Due to the non-violent nature of Mr. Beaubrun's offense and lack of any adult violent criminal history, he is analogously-situated not only to the defendants in both *Range* and *Vincent*, but specifically, to Mr. Stewart in *Linton v. Bonta*, 2024 WL 846241, at **2-3, 11 (N.D. Calif. Feb. 28, 2024). *See id.* at **2-3, 10-12. Under these unique circumstances, the Court should hold § 922(g)(1) unconstitutional on its face or as applied to Mr. Beaubrun after *Bruen*, as clarified by *Rahimi*.

The government opposes this request.

CONCLUSION

Based on the foregoing argument and authority, and particularly in light of the Supreme Court's confirmation and clarification of *Bruen*'s Second Amendment methodology in *Rahimi*, the Court should find § 922(g)(1) unconstitutional on its face and as applied to Mr. Beaubrun and dismiss the indictment.

Respectfully Submitted,

HECTOR A. DOPICO
FEDERAL PUBLIC DEFENDER

BY: s/ M. Caroline McCrae
M. Caroline McCrae
Assistant Federal Public Defender

Attorney for Defendant
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West Palm Beach, Florida 33401
(561) 833-6288 – Telephone
caroline_mccrae@fd.org – Email

CERTIFICATE OF SERVICE

I HEREBY certify that on February 20, 2025, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/ M. Caroline McCrae

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO: 24-80162-CR-MIDDLEBROOKS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DIMITRI BEAUBRUN,

Defendant.

ORDER DENYING MOTION TO DISMISS INDICTMENT

THIS CAUSE is before the Court on Defendant Dimitri Beaubrun's Motion to Dismiss Indictment, pursuant to Federal Rule of Criminal Procedure 12(b), filed on February 20, 2025. (DE 19). The Government filed a Response on February 23, 2025. (DE 22). No Reply has yet been filed, but I am prepared to rule without need of further briefing.

The one-count Indictment in this case charges Mr. Beaubrun with being a felon in possession of a firearm and ammunition, in violation of 18 U.S.C. § 922(g). (DE 1). Mr. Beaubrun seeks dismissal, relying upon the Supreme Court's decision in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022), as clarified in *United States v. Rahimi*, 602 U.S. 680 (2024), arguing that § 922(g)(1) is unconstitutional on its face and as applied. Binding Eleventh Circuit authority forecloses his arguments.

Starting in *United States v. Rozier*, 598 F. 3d 768 (11th Cir. 2010), that Court held that "statutes disqualifying felons from possessing a firearm under any and all circumstances do not offend the Second Amendment." *Id.* at 771. Neither *Bruen* nor *Rahimi* cast any doubt on felon in

possession prohibitions. *Rahimi*, which upheld the constitutionality of a subsection of the same statute as § 922(g)(1), opined that regulations prohibiting firearm possession by convicted felons are “presumptively lawful.” *Rahimi*, 602 U.S. at 693, 699.

Since the Supreme Court’s *Bruen* and *Rahimi* decisions, unpublished Eleventh Circuit decisions have continued to apply the holding in *Rozier*. See e.g. *United States v. Cole*, 2025 WL339894 (11th Cir. Jan. 30, 2025) (per curiam) (Circuit Judges Lagoa, Hull and Wilson) (“Neither *Bruen* nor *Rahimi* cast any doubt whatsoever on felon-in-possession prohibitions.”); *United States v. Dial*, 2024 WL5103431 (11th Cir. Dec. 13, 2024) (per curiam) (Circuit Judges Jill Pryor, Branch and Anderson) (“Under our precedent, *Dial*’s Second Amendment challenge to § 922(g)(1) fails.”); *United States v. Morrissette*, 2024 WL4709935 (11th Cir. Nov. 7, 2024) (per curiam) (Circuit Judges Jill Pryor, Newsom, and Grant). Because *Rozier* has not been overruled or undermined to the point of abrogation, I am bound by that decision’s holding that § 922(g)(1) does not violate the Second Amendment under a facial challenge.

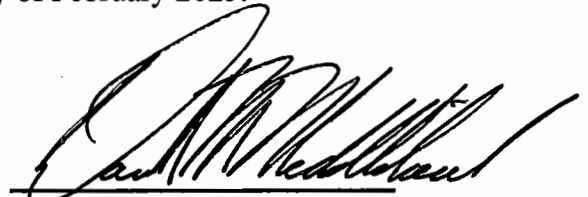
Mr. Beaubrun’s as applied challenge also fails. Mr. Beaubrun says he has never been convicted of a crime of violence as an adult. However, according to the Pretrial Detention Order, he has a lengthy and continuous criminal history going back to age 14. (DE 15). And according to the Government, Mr. Beaubrun has been convicted of twenty different felony offenses in the State of Florida. (DE 22).

The Indictment charges that Mr. Beaubrun “knowingly possessed a firearm and ammunition...knowing that he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year...” (DE 1). The only question at this juncture is whether the Indictment violated Mr. Beaubrun’s constitutional rights. Because the Indictment

properly charged a violation of § 922(g)(1), he cannot succeed on an as applied challenge at this state.

Therefore, it is **ORDERED AND ADJUDGED** that Defendant Dimitri Beaubrun's Motion to Dismiss Indictment (**DE 19**) is **DENIED**.

SIGNED at West Palm Beach, Florida, this 25th day of February 2025.

A handwritten signature in black ink, appearing to read "Donald M. Middlebrooks", written over a horizontal line.

Donald M. Middlebrooks
United States District Judge

cc: Counsel of Record

A-6

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

UNITED STATES OF AMERICA

v.

DIMITRI BEAUBRUN

§ **JUDGMENT IN A CRIMINAL CASE**
 §
 §
 § Case Number: **9:24-CR-80162-DMM(1)**
 § USM Number: **52432-511**
 §
 § Counsel for Defendant: **M Caroline McCrae**
 § Counsel for United States: **Daniel E. Funk**

THE DEFENDANT:

<input checked="" type="checkbox"/>	pleaded guilty to count(s)	One
<input type="checkbox"/>	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	
<input type="checkbox"/>	pleaded nolo contendere to count(s) which was accepted by the court	
<input type="checkbox"/>	was found guilty on count(s) after a plea of not guilty	

The defendant is adjudicated guilty of these offenses:

<u>Title & Section / Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18:922(g)(1) and 924(e) - Felon In Possession Of A Firearm and Ammunition (Armed Career Criminal Act)	08/17/2024	1

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s)
- Count(s) is are dismissed on the motion of the United States

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

May 29, 2025

Date of Imposition of Judgment


Signature of Judge

**DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE**

Name and Title of Judge

May 29, 2025

Date

DEFENDANT: DIMITRI BEAUBRUN
CASE NUMBER: 9:24-CR-80162-DMM(1)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

ONE HUNDRED EIGHTY (180) MONTHS as to Count 1. This federal sentence shall begin immediately and shall run concurrent to any sentences imposed in the pending state court cases.

The court makes the following recommendations to the Bureau of Prisons:
The Defendant be designated to a facility in or as close to South Florida as possible.
The Defendant participate in the drug treatment (RDAP) program while in custody.

The defendant is remanded to the custody of the United States Marshal.
 The defendant shall surrender to the United States Marshal for this district:

at a.m. p.m. on

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on
 as notified by the United States Marshal.
 as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By
DEPUTY UNITED STATES MARSHAL

DEFENDANT: DIMITRI BEAUBRUN
CASE NUMBER: 9:24-CR-80162-DMM(1)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **THREE (3) YEARS.**

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

DEFENDANT: DIMITRI BEAUBRUN
CASE NUMBER: 9:24-CR-80162-DMM(1)

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at www.flsp.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: DIMITRI BEAUBRUN
CASE NUMBER: 9:24-CR-80162-DMM(1)

SPECIAL CONDITIONS OF SUPERVISION

Permissible Search: The defendant shall submit to a search of his/her person or property conducted in a reasonable manner and at a reasonable time by the U.S. Probation Officer.

Substance Abuse Treatment: The defendant shall participate in an approved treatment program for drug and/or alcohol abuse and abide by all supplemental conditions of treatment. Participation may include inpatient/outpatient treatment. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third-party payment.

Unpaid Restitution, Fines, or Special Assessments: If the defendant has any unpaid amount of restitution, fines, or special assessments, the defendant shall notify the probation officer of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay.

DEFENDANT: DIMITRI BEAUBRUN
CASE NUMBER: 9:24-CR-80162-DMM(1)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments page.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$100.00	\$.00	\$.00		

- The determination of restitution is deferred until *An Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

- Restitution amount ordered pursuant to plea agreement \$
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the schedule of payments page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
 - the interest requirement is waived for the fine restitution
 - the interest requirement for the fine restitution is modified as follows:

Restitution with Imprisonment - It is further ordered that the defendant shall pay restitution in the amount of **\$.00**. During the period of incarceration, payment shall be made as follows: (1) if the defendant earns wages in a Federal Prison Industries (UNICOR) job, then the defendant must pay 50% of wages earned toward the financial obligations imposed by this Judgment in a Criminal Case; (2) if the defendant does not work in a UNICOR job, then the defendant must pay a minimum of \$25.00 per quarter toward the financial obligations imposed in this order. Upon release of incarceration, the defendant shall pay restitution at the rate of 10% of monthly gross earnings, until such time as the court may alter that payment schedule in the interests of justice. The U.S. Bureau of Prisons, U.S. Probation Office and U.S. Attorney's Office shall monitor the payment of restitution and report to the court any material change in the defendant's ability to pay. These payments do not preclude the government from using other assets or income of the defendant to satisfy the restitution obligations.

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, 18 U.S.C. §2259.
** Justice for Victims of Trafficking Act of 2015, 18 U.S.C. §3014.
*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: DIMITRI BEAUBRUN
CASE NUMBER: 9:24-CR-80162-DMM(1)

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A Lump sum payments of \$100.00 due immediately, balance due

It is ordered that the Defendant shall pay to the United States a special assessment of \$100.00 for Count 1, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court. Payment is to be addressed to:

**U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 8N09
MIAMI, FLORIDA 33128-7716**

The assessment/fine/restitution is payable immediately. The U.S. Bureau of Prisons, U.S. Probation Office and the U.S. Attorney's Office are responsible for the enforcement of this order.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several
See above for Defendant and Co-Defendant Names and Case Numbers (*including defendant number*), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

The defendant shall forfeit the defendant's interest in the following property to the United States:
FORFEITURE of the defendant's right, title and interest in certain property is hereby ordered consistent with the plea agreement. The United States shall submit a proposed Order of Forfeiture within three days of this proceeding.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.