

No. _____

In the
Supreme Court of the United States

Von Allen Randall,
Petitioner,

v.

United States of America,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

- I. The Texas statutes defining Petitioner’s prior offenses explicitly prohibit conduct outside the ACCA’s “serious drug offense” and “violent felony” definitions. The lower courts applied the ACCA anyway because Petitioner did not prove to the courts’ satisfaction that Texas had prosecuted and convicted someone for the exact same crime whose actual conduct fell outside the relevant definitions.

When analyzing a state statute under the categorical approach, and that statute is explicitly broader than the relevant federal definition, does the defendant bear a burden of proving that the state had convicted someone for non-qualifying conduct?

- I. Whether 18 U.S.C. § 922(g)(1) comports with the Second Amendment?

PARTIES TO THE PROCEEDING

Petitioner is Von Allen Randall, who was the Defendant-Appellant in the court below. Respondent, the United States of America, was the Plaintiff-Appellee in the court below.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Von Allen Randall seeks a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The opinion of the Court of Appeals was not published but is available at *United States v. Von Allen Randall*, No. 25-10841, 2026 WL 401613 (5th Cir. Feb. 12, 2026) (unpublished). It is reprinted in Appendix A to this Petition. The district court's judgment and sentence is attached as Appendix B.

JURISDICTION

The panel opinion and judgment of the Fifth Circuit were entered on February 12, 2026. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISION INVOLVED

The Second Amendment to the U.S. Constitution provides, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." U.S. Const., amend. II.

STATUTORY PROVISIONS INVOLVED

Section 922(g)(1) of Title 18 reads in relevant part:

(g) It shall be unlawful for any person—

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

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

18 U.S.C. § 922(g)(1).

Title 18 U.S.C. § 924(a) provides, in pertinent part,

Whoever knowingly violates subsection (a)(6), (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both.

18 U.S.C. § 924(a)(2) (2018) (amended 2022).

The Armed Career Criminal Act is codified at 18 U.S.C. § 924(e). The Act provides, in pertinent part:

(e)(1) In the case of a person who violates section 922(g) of this title and has three previous convictions by any court referred to in section 922(g)(1) of this title for a violent felony or a serious drug offense, or both, committed on occasions different from one another, such person shall be fined under this title and imprisoned not less than fifteen years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g).

(2) As used in this subsection--

(A) the term “serious drug offense” means--

* * * *

(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law;

(B) the term “violent felony” means any crime punishable by imprisonment for a term exceeding one year . . . that—

(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

(ii) is burglary, arson, or extortion, involves use of explosives . . .

18 U.S.C. § 924(e)(1)-(2).

LIST OF PROCEEDINGS BELOW

1. *United States v. Von Allen Randall*, 3:22-CR-238-N, United States District Court for the Northern District of Texas. Judgment and sentence entered on July 18, 2025. (Appendix B).
2. *United States v. Von Allen Randall*, No. 25-10841, 2026 WL 401613 (5th Cir. Feb. 12, 2026) (unpublished), Court of Appeals for the Fifth Circuit. Judgment affirmed on February 12, 2026. (Appendix A).

STATEMENT OF THE CASE

A. Facts and Proceedings in District Court

On March 28, 2022, Dallas police stopped Petitioner Von Allen Randall in his car. (PSR, ¶¶9-10). They found a quantity of drugs and a handgun. (PSR, ¶10). Because he had been previously convicted of multiple burglaries, (ROA.188-248, 258-266), the federal government charged him possessing a firearm after three or more “violent felonies” committed on separate occasions, (ROA.30-31).

Petitioner moved to dismiss the indictment on the ground that 18 U.S.C. 922(g)(1), which forbids possession of a firearm after a felony conviction, violates the Second Amendment. (ROA.122-146). The district court denied the motion, (ROA.298-302), and Petitioner pleaded guilty, (ROA.402-408).

The Presentence Report (PSR) identified a mandatory minimum of 15 years imprisonment and a maximum of life imprisonment, a consequence of 18 U.S.C. 924(e), the Armed Career Criminal Act (“ACCA”). (PSR, ¶109). Appellant objected that burglary does not constitute a “violent felony” triggering ACCA, but conceding the claim to be foreclosed. (Defendant’s Objections to PSR, at 1). At sentencing, the district court found that ACCA applied and imposed 180 months of imprisonment. (ROA.462).

B. Appellate Proceedings

In his appeal, Petitioner raised two challenges to his conviction. First, he maintained that his § 922(g)(1) conviction could not pass constitutional muster under the Second Amendment, because the statute burdens conduct protected by the plain text of the Second Amendment, and there is no historical analogue of reasonable

similarity, as required by *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 68 (2022). Second, he argued that his Texas burglary offense does not constitute a “violent felony” under ACCA.

The Fifth Circuit affirmed in an unpublished opinion. [App. A]. That court concluded that Petitioner’s Second Amendment argument was foreclosed by *United States v. Diaz*, 116 F.4th 458, 471–72 (5th Cir. 2024). *Id.* at *2. Likewise, the court of appeals concluded that Petitioner’s ACCA argument was foreclosed by *United States v. Herrold*, 941 f.3d. 173, 182 (5th Cir. 2019). *Id.*

REASONS FOR GRANTING THIS PETITION

I. **This Court should grant the petition to resolve the division of authority about the “actual case” doctrine.**

In determining whether a defendant’s prior offense qualifies as a predicate offense to the ACCA, the Court considers only the *elements* of a state crime because those are the only facts necessarily established by the conviction. This Court has held—“over and over”—that the ACCA “does not care about” underlying facts. *Mathis v. United States*, 579 U.S. 500, 519 (2016). “If any—even the least culpable—of the acts criminalized do not” satisfy the federal standard, then the statute of conviction “cannot serve as an ACCA predicate.” *Borden v. United States*, 593 U.S. 420, 424 (2021).

The Fifth Circuit has set this principle on its ear. When considering state statutes that *plainly* and *explicitly* prohibit actions that are outside the federal definition, the court ignores the mismatch unless the defendant can *prove* that someone was convicted of the exact same offense on non-generic facts. Even after this Court emphasized the “oddity of placing a burden on the defendant to present empirical evidence” about “prosecutorial habits,” the Fifth Circuit persisted. *United States v. Taylor*, 596 U.S. 845, 857 (2022).

A. There is an entrenched conflict among the circuits.

The First, Second, Third, Fourth, Seventh, Ninth, Tenth, and Eleventh Circuits have all held that there is no need to point to an actual prosecution where “a state statute explicitly defines a crime more broadly than the [federal] definition.” *Lopez-Aguilar v. Barr*, 948 F.3d 1143, 1147–48 (9th Cir. 2020); *see also Swaby v.*

Yates, 847 F.3d 62, 66 (1st Cir. 2017) (Where the statutory language “clearly does apply more broadly than the federally defined offense,” then the statute is non-generic.); *Hylton v. Sessions*, 897 F.3d 57, 63 (2d Cir. 2018) (There is no need to point to actual examples of prosecution “when the statutory language itself, rather than the application of legal imagination to that language, creates the realistic probability that a state would apply the statute to conduct beyond the generic definition.”); *Ramos v. Att’y Gen.*, 709 F.3d 1066, 1072 (11th Cir. 2013) (same); *Singh v. Att’y Gen.*, 839 F.3d 273, 286 n.10 (3d Cir. 2016) (The “realistic probability” test comes into play only when “the relevant elements” of the state crime and the generic definition are “identical.”); *Gordon v. Barr*, 965 F.3d 252, 261 (4th Cir. 2020) (“[T]he *Moncrieffe* dictum does not require a petitioner to ‘find a case’ in which the state successfully prosecuted a defendant for the overbroad conduct when, as here, the language of a statute unambiguously is broader than the federal offense under comparison.”); *Aguirre-Zuniga v. Garland*, 37 F.4th 446, 450 (7th Cir. 2022) (discussing *United States v. Ruth*, 966 F.3d 642, 647–48 (7th Cir. 2022)) (“To the extent there is any room for doubt in our case law, we reaffirm our statement in *Ruth*: If the statute is overbroad on its face under the categorical approach, the inquiry ends.”); *United States v. Titties*, 852 F.3d 1257, 1274 (10th Cir. 2017) (“This is not a case where we need to imagine hypothetical non-violent facts to take a statute outside the ACCA’s ambit. Section 1289.16 reaches conduct undertaken for purposes of ‘whimsy, humor or prank’ because the statute specifically says so.”).

Eighth Circuit precedent is a mixed bag, but that is even more reason to grant

certiorari and resolve the conflict. For *drug* predicates that incorporate the federal CSA, the Eighth Circuit is firmly on Petitioner’s side of the debate. The court rejected the Government’s argument that “petitioners must prove through specific convictions that unambiguous laws really mean what they say.” *Gonzalez v. Wilkinson*, 990 F.3d 654, 660 (8th Cir. 2021). That approach is “at odds with the categorical approach itself, which asks us to focus on the language of the statutory offense, ‘not the facts underlying the case.’” *Id.* (citations omitted).

But in *United States v. Hutchinson*, 27 F.4th 1323, 1327 (8th Cir. 2022), the court followed the Fifth Circuit’s lead and found that the defendant failed to “demonstrate[] a ‘realistic probability’” that Texas Penal Code § 30.02(a)(3) reaches non-generic conduct.”

The Fifth Circuit—and only the Fifth Circuit—is firmly on the government’s side of the debate. Judges within and without the Fifth Circuit acknowledge the split. *See Alexis*, 960 F.3d at 731–33 (Graves, J., concurring) (discussing *Hylton*, 897 F.3d at 64, and *Zhi Fei Liao v. Attorney Gen.*, 910 F.3d 714, 723 & n.11 (3d Cir. 2018)). Other courts describe the Fifth Circuit’s approach as “demanding and particular,” *Hylton*, 897 F.3d at 64, and marked by “confusion,” *Salmoran v. Attorney Gen.*, 909 F.3d 73, 81 (3d Cir. 2018). “The majority” of circuit courts “have similarly declined to follow the government’s framing of the realistic probability inquiry.” *Gonzalez*, 990 F.3d at 661.

The Fifth Circuit applied its “demanding and particular” approach to Petitioner’s legal challenge. In a circuit that did not require him to *prove* that Texas

had prosecuted explicitly overbroad statutes on overbroad facts, his ACCA sentence would have been reversed.

Texas Penal Code § 30.02(a)(3) is a novel theory of burglary liability called “trespass-plus-crime.” See *Van Cannon v. United States*, 890 F.3d 656, 664 (7th Cir. 2018). Only a handful of states have adopted that theory. Rather than requiring formation of intent to commit some other crime inside the premises, this new theory is just a nonconsensual entry “followed by the commission of a crime within the trespassed building at some point thereafter.” *Id.* at 664. *Van Cannon* held that a Minnesota crime materially identical to Texas Penal Code § 30.02(a)(3) is non-generic because “the statute doesn’t require proof of intent to commit a crime *at all*—not at *any* point during the offense conduct.” 890 F.3d at 664. The court refused to consider “*implicit* elements” when performing the ACCA analysis. *Id.* at 664; see also *Chazen v. Marske*, 938 F.3d 851, 860 (7th Cir. 2019) (reaffirming this holding after *Quarles*).

In *United States v. Herrold*, 941 F.3d at 178–79, the Fifth Circuit rejected the same argument because the defendant could not prove that Texas had applied § 30.02(a)(3) where the defendant (in fact) lacked specific intent. Never mind the fact that the statute plainly allows such liability, and that a burglary defendant has no incentive to contest whether his conduct was reckless or negligent rather than intentional. The burden is on the defendant, and he could not satisfy the burden.

The divergent outcomes are even more apparent for drug crimes. In *United States v. Minter*, 80 F.4th 406, 408 (2d Cir. 2023), the defendant was convicted in a

state that controlled *all* isomers of cocaine. The Second Circuit reversed his ACCA sentence: the expanded coverage of isomers meant the crime was categorically broader than the “serious drug offense” definition. The court rejected the Government’s argument that Minter must prove that New York had convicted someone for a position-isomer crime. *Id.* at 409–12 (citing *Hylton*, 897 F.3d at 65). In *United States v. Myers*, 56 F.4th 595, 598–99 (8th Cir. 2022), the Eighth Circuit affirmed a non-ACCA sentence and rejected the Government’s appeal because Missouri defines “cocaine” to include non-federally-controlled isomers.

And in *United States v. Ruth*, 966 F.3d at 647–50, the Seventh Circuit held that a defendant’s Illinois drug conviction was overbroad because the state prohibits additional isomers of cocaine. The Eighth Circuit agreed in *United States v. Oliver*, 987 F.3d 794, 807 (8th Cir. 2021).

B. The issue is recurring and incredibly important.

The categorical approach applies in a wide array of statutory contexts; most of them involve incredibly high stakes. As this case proves, the ACCA authorizes and often requires years of additional imprisonment compared to what the court would have imposed. In the immigration context, the analysis often makes the difference between deportation and lifetime banishment and remaining in the United States.

In the absence of Supreme Court intervention, parties with identical criminal records will experience divergent outcomes in criminal and immigration courts based solely on the accident of geography. The Court should grant this petition to resolve the dispute.

II. Lower courts require guidance on how to adjudicate Second Amendment challenges to 18 U.S.C. § 922(g)(1) prosecutions.

The Second Amendment guarantees “the right of the people to keep and bear arms.” U.S. Const. amend. II. Yet § 922(g)(1) indiscriminately denies that right to anyone previously convicted of a crime punishable by a year or more. Despite the undeniable conflict between the constitutional and statutory text, Second Amendment challenges to § 922(g)(1) prosecutions have historically and uniformly failed. *See United States v. Moore*, 666 F.3d 313, 316–17 (4th Cir. 2012) (collecting authorities).

But *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1 (2022), minted a new text-and-history test for adjudicating Second Amendment claims. “When the Second Amendment’s plain text covers an individual’s conduct,” the government now must “justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation.” *Bruen*, 597 U.S. at 24. No longer may the government defend a regulation by showing that it is narrowly tailored to achieve an important or even compelling state interest. *Id.* at 17–24. As for the particulars of the “historical inquiry” courts must conduct, *Bruen* explained that “whether a historical regulation is a proper analogue for a distinctly modern firearm regulation” depends on “whether the two regulations are ‘relevantly similar.’” *Id.* at 28–29 (quoting C. Sunstein, *On Analogical Reasoning*, 106 Harv. L. Rev. 741, 773 (1993)). Relevant similarity, as sketched out by *Bruen*, means that the regulations must match on “how and why” the Second Amendment right is burdened. *Id.* at 29. Otherwise stated, “whether modern and historical regulations impose a

comparable burden on the right of armed self-defense and whether that burden is comparably justified are central considerations....” *Id.* (cleaned up).

United States v. Rahimi, 602 U.S. 680 (2024), then applied *Bruen* to a federal firearm crime. But *Rahimi* “conclude[d] only this: An individual *found by a court* to pose a credible *threat to the physical safety of another* may be *temporarily* disarmed consistent with the Second Amendment.” *Rahimi*, 602 U.S. at 702 (emphasis added). True, *Rahimi* clarified that “the appropriate analysis involves considering whether the challenged regulation is consistent with the *principles* that underpin our regulatory tradition.” *Id.* at 692 (citing *Bruen*, 597 U.S. at 26–31) (emphasis added). And it found that “Section 922(g)(8)[s]...prohibition on the possession of firearms by those found by a court to present a threat to others fits neatly within the tradition th[at] surety and going armed laws,” both “founding era regimes,” “represent.” *Id.* at 698. But *Rahimi*’s reasoning left unresolved whether the government could invoke this tradition to justify a statute like § 922(g)(1) — which imposes an *uncabined* and *permanent* firearm possession ban irrespective of any threat, judicially determined or otherwise, that a person may pose. When it comes to § 922(g)(1), *Rahimi* left plenty unresolved.

A. The courts of appeals are deeply divided over the scope of the Second Amendment right.

As Justice Jackson recently observed, “lower courts applying *Bruen*’s approach have been unable to produce consistent, principled results, and, in fact, they have come to conflicting conclusions on virtually every consequential Second Amendment issue to come before them.” *Rahimi*, 602 U.S. at 743 (Jackson, J., concurring) (cleaned

up). Some circuits see no need to conduct *Bruen*'s text-and-history analysis in the § 922(g)(1) context, relying instead on dicta predating *Bruen*. Others apply *Bruen*'s text-and-history framework but disagree on whether felons are part of “the people” protected by the Second Amendment, are split on the traditions that justify § 922(g)(1), and vary as to whether the statute is vulnerable to as-applied challenges.

Five circuits “have upheld the categorical application of § 922(g)(1) to all felons.” *United States v. Duarte*, 137 F.4th 743, 747 (9th Cir. 2025) (citing *United States v. Hunt*, 123 F.4th 697, 707–08 (4th Cir. 2024); *United States v. Jackson*, 110 F.4th 1120, 1129 (8th Cir. 2024); *Vincent v. Bondi*, 127 F.4th 1263, 1265–66 (10th Cir. 2025); *United States v. Dubois*, 94 F.4th 1284, 1293 (11th Cir. 2024), *cert. granted, judgment vacated*, 145 S. Ct. 1041 (2025)); *Duarte*, 137 F.4th at 748 (“Today, we align ourselves with the Fourth, Eighth, Tenth and Eleventh Circuits and hold that § 922(g)(1) is not unconstitutional as applied to non-violent felons like Steven Duarte.”). Each placed significant weight on this Court’s statement in *District of Columbia v. Heller*, 554 U.S. 570, 626–27 & n.26 (2008), that “prohibitions on the possession of firearms by felons” are “presumptively lawful.” *See Hunt*, 123 F.4th at 703–04; *Jackson*, 110 F.4th at 1128–29; *Vincent*, 127 F.4th at 1265; *Dubois*, 94 F.4th at 1293; *Duarte*, 137 F.4th at 750–52.

The Fourth, Eighth and Ninth Circuits went farther. The Fourth Circuit concluded that both the text and history supported the exclusion of felons from the arms-bearing right. *See Hunt*, 123 F.4th at 704–08. The Eighth Circuit reached the same end point based on history alone. *See Jackson*, 110 F.4th at 1126–29. The en

banc Ninth Circuit most recently “agree[d] with the Fourth and Eighth Circuits that...historical tradition is sufficient to uphold the application of § 922(g)(1) to all felons.” *Duarte*, 137 F.4th at 761 (citing *Jackson*, 110 F.4th at 1127–28; *Hunt*, 123 F.4th at 706.).¹

Two circuits — including the Fifth Circuit — have endorsed that “§ 922(g)(1) might be unconstitutional as applied to at least *some* felons.” *Duarte*, 137 F.4th at 748 (citing *United States v. Diaz*, 116 F.4th 458, 471 (5th Cir. 2024); *United States v. Williams*, 113 F.4th 637, 661–62 (6th Cir. 2024)). And “the Third Circuit has held that § 922(g)(1) is unconstitutional as applied to a felon who was convicted of making a false statement to secure food stamps.” *Duarte*, 137 F.4th at 748 (citing *Range v. Att’y Gen.*, 124 F.4th 218, 222–23 (3d Cir. 2024) (en banc)). The Fifth Circuit split with its sister courts by first discarding the notion that *Heller*’s “presumptively lawful” dicta could “supplant the most recent analysis set forth by the Supreme Court in *Rahimi*....” *Diaz*, 116 F.4th at 466. On this point, the Third Circuit and Sixth Circuit agree. *Range*, 124 F.4th at 224–25; *Williams*, 113 F.4th at 646. But on the history, the Fifth Circuit endorsed capital punishment at the founding as a dispositive historical analogue, *see Diaz*, 116 F.4th at 467–70, whereas the Third Circuit found the historical availability of the death penalty irrelevant, *see Range*, 124 F.4th at 231; *accord Kanter v. Barr*, 919 F.3d 437, 461–62 (7th Cir. 2019),

¹ In *Duarte*, the en banc Ninth Circuit overruled a panel opinion holding the statute unconstitutional as applied to a person with prior convictions for vandalism, drug possession, and evading arrest. *See United States v. Duarte*, 101 F.4th 657, 661–63 (9th Cir.), *reh’g en banc granted, opinion vacated*, 108 F.4th 786 (9th Cir. 2024), *on reh’g en banc*, 137 F.4th 743 (9th Cir. 2025).

abrogated by Bruen (Barrett, J., dissenting). The linchpin for the Third Circuit’s constitutional holding instead relied on the lack of evidence that the claimant “poses a physical danger to others.” *Range*, 124 F.4th at 232.

For its part, the Sixth Circuit blessed “governments label[ing] whole classes as presumptively dangerous,” *Williams*, 113 F.4th at 657, but “refuse[d] to defer blindly to § 922(g)(1) in its present form.” *Range*, 124 F.4th at 230 (citing *Williams*, 113 F.4th at 658–61). According to the Sixth Circuit, “history shows that § 922(g)(1) might be susceptible to an as-applied challenge” by individuals who show they are “not dangerous....” *Williams*, 113 F.4th at 657. The Fifth Circuit later agreed with this “dangerousness” demarcator. *United States v. Schnur*, 132 F.4th 863, 870 (5th Cir. 2025) (citing *Williams*, 113 F.4th at 661–62). But the two circuits still depart on the scope of the “dangerousness” inquiry. *Compare Schnur*, 132 F.4th 863, 867 (“In assessing Schnur’s criminal history under § 922(g)(1), this court ‘may consider prior convictions that are ‘punishable by imprisonment for a term exceeding one year.’” (quoting *Diaz*, 116 F.4th at 467)) *with Williams*, 113 F.4th at 659–60 (“When evaluating a defendant’s dangerousness, a court may consider a defendant’s entire criminal record—not just the specific felony underlying his § 922(g)(1) conviction.”).

Disagreements abound intra-circuit too. In *Range*, the en banc Third Circuit generated six opinions, including one dissent. The Ninth Circuit in *Duarte*, also en banc, generated four opinions, including one partial dissent. *Williams*, a panel decision, produced a concurrence in the judgment only.

In short, jurists “are currently at sea when it comes to evaluating firearms legislation” and in acute “need [of] a solid anchor for grounding their constitutional pronouncements.” *Rahimi*, 602 U.S. at 747 (Jackson, J., concurring).

B. This issue implicates the prosecution and incarceration of thousands of individuals.

As of October 9, 2025, the Bureau of Prisons reported that it imprisons 155,197 people.² And as of September 27, 2025, 22% of inmates (31,722) were incarcerated for “Weapons, Explosives, [and] Arson” offenses, the second largest category of offenses within the federal prison population.³ “For more than 25 years” in fact, firearm crimes have been one of the “four crime types” that “have comprised the majority of federal felonies and Class A misdemeanors[.]”⁴ In fiscal year 2021, “[c]rimes involving firearms were the third most common federal crimes[.]”⁵ Of the 57,287 individuals sentenced, 8,151 were firearm cases—a 14.2% share.⁶ This represents an 8.1% increase from the year before, despite the number of cases reported to the U.S. Sentencing Commission declining by 11.3% and hitting an all-time low since fiscal year 1999.⁷ In fiscal year 2024, 7,419 of the cases reported to the U.S. Sentencing

² *Statistics*, Federal Bureau of Prisons, https://www.bop.gov/about/statistics/population_statistics.jsp (last visited October 16, 2025).

³ *Statistics – Inmate Offenses*, Federal Bureau of Prisons, https://www.bop.gov/about/statistics/statistics_inmate_offenses.jsp (last visited October 16, 2025).

⁴ *Fiscal Year 2021 Overview of Federal Criminal Cases* at 4, U.S. SENTENCING COMM’N (April 2022), available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2022/FY21_Overview_Federal_Criminal_Cases.pdf.

⁵ *Id.* at 19.

⁶ *Id.* at 1, 5.

⁷ *Id.* at 2.

Commission involved convictions under 18 U.S.C. § 922(g) — 90.4% of those involved § 922(g)(1) convictions specifically.⁸

These figures only capture the tail end of the criminal process. The scope of prosecutions looms larger. “The Department of Justice filed firearms-related charges in upwards of 13,000 criminal cases during the 2021 fiscal year.” *United States v. Kelly*, No. 3:22-CR-00037, 2022 WL 17336578, at *3 (M.D. Tenn. Nov. 16, 2022) (citing Executive Office for United States Attorneys, U.S. Dept. of Justice, Annual Statistical Report Fiscal Year 2021 at 15 (Table 3C), available at <https://www.justice.gov/usao/page/file/1476856/download>). That number remained above 10,000 in fiscal year 2024.⁹ The scale of the question presented warrants this Court’s attention.

⁸ *FY 2024 Quick Facts 18 U.S.C. § 922(g) Firearms Offenses*, U.S. SENTENCING COMM’N, available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Felon_In_Possession_FY24.pdf.

⁹ *United States Attorneys’ Annual Statistical Report Fiscal Year 2024* tbl. 3(C), U.S. DEPT OF JUSTICE, available at <https://www.justice.gov/usao/media/1399686/dl?inline>.

CONCLUSION

Petitioner respectfully submits that this Court should grant *certiorari* to review the judgment of the United States Court of Appeals for the Fifth Circuit.

Respectfully submitted this 12th day of May, 2026.

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