# APPENDIX

## TABLE OF APPENDICES

# A-1

**NOT FOR PUBLICATION**

# In the United States Court of Appeals For the Eleventh Circuit

No. 25-11358
Non-Argument Calendar

UNITED STATES OF AMERICA,

*Plaintiff-Appellee,*

*versus*

MARIO MARTINEZ WILLIAMS,

*Defendant-Appellant.*

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 9:24-cr-80114-AMC-1

Before LUCK, LAGOA, and MARCUS, Circuit Judges.

PER CURIAM:

Mario Williams appeals his conviction for being a felon in possession of a firearm, arguing that the district court erred in denying his motion to dismiss his indictment because: (1) 18 U.S.C.

§ 922(g)(1) is unconstitutional under the Second Amendment, as applied to him, under *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022), and *United States v. Rahimi*, 602 U.S. 680 (2024); (2) our decision in *United States v. Dubois* (*Dubois II*), 139 F.4th 887 (11th Cir. 2025), *cert. denied*, 2026 WL 135685 (U.S. Jan. 20, 2026) (No. 25-6281), is inconsistent with our earlier ruling in *NRA v. Bondi*, 133 F.4th 1108 (11th Cir. 2025) (en banc), *petition for cert. filed*, 2025 WL 1458530 (U.S. May 20, 2025) (No. 24-1185); and (3) under the prior-panel-precedent rule, *Bondi* controls and his constitutional challenge to § 922(g)(1) must be considered under *Bruen*/*Rahimi*'s framework. The government has moved for summary affirmance. After careful review, we grant the government's motion and summarily affirm.

Summary disposition is appropriate either where time is of the essence, including "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).[1] We generally review challenges to the constitutionality of a statute de novo. *United States v. Gruezo*, 66 F.4th 1284, 1292 (11th Cir. 2023).

[1] In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), we adopted as binding precedent all Fifth Circuit decisions issued before October 1, 1981.

The Second Amendment reads: "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. The federal felon-in-possession statute prohibits anyone who has been convicted of "a crime punishable by imprisonment for a term exceeding one year" from "possess[ing] in or affecting commerce, any firearm or ammunition." 18 U.S.C. § 922(g)(1).

In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court held that the District of Columbia's total ban on handgun possession, including possession in the home, violated the Second Amendment. *Id.* at 574–76, 628, 635. The Supreme Court stated that the Second Amendment right to bear arms presumptively "belongs to all Americans," but is not unlimited. *Id.* at 581, 626. The Supreme Court noted in *Heller* that while it "[did] not undertake an exhaustive historical analysis . . . of the full scope of the Second Amendment, nothing in [the *Heller*] opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons." *Id.* Courts of appeals adopted a "two-step" framework for assessing Second Amendment challenges following *Heller*: (1) determine whether the law in question regulates activity within the scope of the right to bear arms based on its original historical meaning; and (2) if so, apply means-end scrutiny to test the law's validity. *Bruen*, 597 U.S. at 18–19.

In *United States v. Rozier*, 598 F.3d 768 (11th Cir. 2010), decided between *Heller* and *Bruen*, we relied on *Heller* in holding that § 922(g)(1) did not violate the Second Amendment, "even if a felon

possesses a firearm purely for self-defense." *Id.* at 770. Our decision did not rely on means-end scrutiny to conclude that § 922(g)(1) was constitutional; instead, we recognized that prohibiting felons from possessing firearms was a "presumptively lawful longstanding prohibition." *Id.* at 771 (citation modified). We highlighted "that 'nothing in [*Heller*] should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons'" or "suggest[] that statutes disqualifying felons from possessing a firearm under any and all circumstances do not offend the Second Amendment." *Id.* (quoting *Heller*, 554 U.S. at 626–27). We concluded that Rozier's purpose for possessing a firearm, and the fact that the firearm was constrained to his home, was immaterial because felons as a class could be excluded from firearm possession. *Id.*

In *Bruen*, the Supreme Court reversed the dismissal of a civil suit under 42 U.S.C. § 1983 brought by applicants who had been denied unrestricted licenses to carry a handgun in public that challenged New York regulations requiring all citizens to demonstrate "proper cause" to obtain concealed carry licenses as violating their Second and Fourteenth Amendment rights. *See* 597 U.S. at 8–16, 31. The Supreme Court reasoned that reliance on means-end analysis in the Second Amendment context was inconsistent with "*Heller*'s methodology [that] centered on constitutional text and history." *Id.* at 16–24. The Supreme Court announced the appropriate standard for Second Amendment analysis: (1) "[w]hen the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct"; and (2) if the

conduct is presumptively protected, "[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 17. The Supreme Court in *Bruen*, quoting *Heller*, referenced the Second Amendment rights of "law-abiding, responsible citizens." *Id.* at 26, 38 n.9, 70 (quoting *Heller*, 554 U.S. at 636).

In *Rahimi*, decided in June 2024, the Supreme Court held that § 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 our country's historical tradition. 602 U.S. at 690–92, 699–700. The Supreme Court noted that courts had "misunderstood" the *Bruen* methodology and stated that the Second Amendment permitted not just regulations identical to those in existence in 1791, but also those regulations that are "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 Supreme Court noted that the right to bear arms "was never thought to sweep indiscriminately" and extensively detailed the historical tradition of firearm regulations, including the prohibition of classes of individuals from firearm ownership. *Id.* at 691, 693–98. It again noted that prohibitions on felons' possession of firearms are "presumptively lawful." *Id.* at 699 (citation modified). It also explained that "[o]ur tradition of firearm regulation allows the Government to disarm individuals who present a credible threat to the physical safety of others." *Id.*

at 700. The Supreme Court held that § 922(g)(8) was constitutional as applied to Rahimi because the restraining order to which Rahimi was subject included a finding that he posed "a credible threat to the physical safety" of another, and the government provided "ample evidence" that the Second Amendment permitted "the disarmament of individuals who pose a credible threat to the physical safety of others." *Id.* at 689, 693 (citation modified).

Meanwhile, in *United States v. Dubois (Dubois I)*, 94 F.4th 1284, 1291–93 (11th Cir. 2024), *vacated*, 145 S. Ct. 1041 (2025) (mem.), *reinstated*, *Dubois II*, 139 F.4th at 889, which was first decided before *Rahimi*, we had rejected a defendant's Second Amendment challenge to § 922(g)(1) on the grounds that *Bruen* did not abrogate *Rozier*, which relied on *Heller*, so we remained bound by *Rozier*. *Id.* at 1291–93. The Supreme Court then vacated and remanded *Dubois I* for reconsideration in light of *Rahimi*. 145 S. Ct. at 1041.

While *Dubois I*'s remand was pending, we issued an en banc decision in *Bondi*, ruling that Florida's law prohibiting the purchase of firearms by minors was not unconstitutional under the Second Amendment as applied to individuals between the ages of eighteen and twenty-one because it was consistent with our nation's historical tradition of firearm regulation. 133 F.4th at 1111, 1117–30. In doing so, we cited *Rahimi* and *Bruen* to explain that "[w]hen 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). We did not discuss § 922(g)(1) or *Dubois I* in *Bondi*. *See generally id.*

On the Supreme Court's remand of *Dubois I*, we concluded that *Rahimi* did not abrogate our "holding in *Rozier* that section 922(g)(1) is constitutional under the Second Amendment" and reinstated our previous opinion. *Dubois II*, 139 F.4th at 889. As we explained, "*Rahimi* continued to rely on *Heller*" and "*Rahimi* also did not abrogate *Rozier*." *Id.* at 892–93. We concluded that we would "require clearer instruction from the Supreme Court before we may reconsider the constitutionality of section 922(g)(1)," so *Rozier* continued to bind us. *Id.* at 894. The majority's decision in *Dubois II* did not cite or discuss *Bondi*. *See id.*

In *Florida Commissioner of Agriculture v. Attorney General*, 148 F.4th 1307 (11th Cir. 2025), we concluded that the district court erred in concluding that two medical marijuana users had failed to state a claim in their as-applied Second Amendment challenge to 18 U.S.C. § 922(d)(3) and (g)(3), which prohibit "unlawful users" of controlled substances from being sold or possessing firearms. *Id.* at 1311, 1321 (citation modified). 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 in this Nation 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 (citation modified). We cited *Dubois II* only in summarizing the government's argument that the plaintiffs' conduct was akin to felons, who have historically been excluded from the right to bear arms. *Id.* at 1317.

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) (citation modified). "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).

We've "categorically rejected an overlooked reason or argument exception to the prior-panel-precedent rule." *United States v. Jackson*, 55 F.4th 846, 853 (11th Cir. 2022) (citation modified). We've recognized that "questions which merely lurk in the record, neither brought to the attention of the court nor ruled upon, are not to be considered as having been so decided as to constitute precedents." *Id.* (citation modified). Regardless, we've stressed that a panel may not disregard precedent and, thus, that the prior-panel-precedent rule applies, even if a later panel believes it was wrongly decided. *United States v. Golden*, 854 F.3d 1256, 1257 (11th Cir. 2017) (per curiam) (citing *Smith v. GTE Corp.*, 236 F.3d 1292, 1303 (11th Cir. 2001) (rejecting an exception to the prior-panel precedent rule "based upon a perceived defect in the prior panel's reasoning or analysis as it relates to the law in existence at that time")).

Here, we grant the government's motion for summary affirmance because its position is clearly right as a matter of law such that there can be no substantial question as to the outcome of the case. *See Groendyke Transp., Inc.*, 406 F.2d at 1161–62. The government is clearly correct as a matter of law that our binding precedent in *Rozier* and *Dubois II* forecloses Williams's Second Amendment challenge to § 922(g)(1). Williams's attempt to disregard these precedents based on a purported conflict between them and *Bondi* is unavailing because *Bondi* did not involve a challenge to a felon disarmament statute, did not suggest that *Rozier*'s analysis of § 922(g)(1) was inconsistent with *Bruen* and *Rahimi*, and did not demolish and eviscerate *Rozier*'s fundamental props. Accordingly, we grant the government's motion for summary affirmance.

**AFFIRMED.**

Clerk's Office Phone Numbers

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OPIN-1 Ntc of Issuance of Opinion

**A-2**

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

CASE NO. 25-11358-G

UNITED STATES OF AMERICA,

Appellee,

v.

MARIO MARTINEZ WILLIAMS,

Appellant.
_____/

**CERTIFICATE OF INTERESTED PERSONS AND GOVERNMENT'S MOTION FOR SUMMARY AFFIRMANCE**

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.

Berry, Scott

Cannon, Hon. Aileen M.

**Colan, Jonathan D.**

Davis, Michael S.

Demirci, Sandra

**United States v. Mario Martinez Williams, Case No. 25-10615-AA**

**Certificate of Interested Persons (continued)**

Dopico, Hector A.

**Harris, Christian**

Lacosta, Anthony W.

Lapointe, Markenzy

Matzkin, Daniel

McCabe, Hon. Ryon M.

McCrae, M. Caroline

O'Byrne, Hayden P.

O'Shea Darsch, Shannon

**Reding Quiñones, Jason A.**

**Smachetti, Emily M.**

**Walters, Emily Melissa**

**Williams, Mario Martinez**

**United States of America**

*/s/ Christian Harris*
Christian Harris
Assistant United States Attorney

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

CASE NO. 25-11358-G

UNITED STATES OF AMERICA,

Appellee,

v.

MARIO MARTINEZ WILLIAMS,

Appellant.
_____/

**GOVERNMENT'S MOTION FOR SUMMARY AFFIRMANCE**

Appellee, the United States of America, respectfully requests summary affirmance of Mario Williams'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 Williams 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 Williams 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 Williams's conviction is therefore appropriate.

## PROCEDURAL HISTORY

A federal grand jury indicted Appellant Mario Williams in the Southern District of Florida and charged him with: possessing with intent to distribute fentanyl, para-fluorofentanyl, and cocaine, in violation of 18 U.S.C. § 841(a)(1); possessing a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i); and 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) (DE1:1-3).

Williams moved to dismiss his indictment on the grounds that § 922(g)(1) violated the Second Amendment (DE:29:1-21). The government opposed his motion (DE:30:1-18), 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:33).

Williams then pled guilty to the charged §§ 922(c)(1)(A)(i) and 922(g)(1) violations (DE:36). As to the 922(g)(1) violation, Williams submitted a factual proffer in which he stipulated to knowingly possessing a firearm and ammunition after having been convicted of a felony (DE:38:1-3).[1]

The district court entered judgment against Williams, sentencing him to serve a 70-month imprisonment term pursuant to 18 U.S.C. § 924(a)(8) with a consecutive, mandatory 60-month imprisonment term, pursuant to 18 U.S.C. § 924(c)(1)(A)(ii) (DE:52:1-2; *see* Presentence Investigation Report ¶ 82).

Williams filed a timely notice of appeal (DE53:1) and is incarcerated.

## STIPULATED FACTS

In support of his guilty plea, Williams stipulated that in June 2024 Florida Highway Patrol saw a car speeding at 91 MPH in a 70 MPH zone (DE38:2). A FHP trooper switched on his lights and sirens to pull over the car (DE38:2). The car sped on for nine more miles, reaching 136 MPH while weaving lane to lane (DE38:2). The car crashed into two occupied vehicles (DE38:2). Williams ran from the driver's side with a black backpack (DE38:2). Williams jumped a fence, dropped the

[1] The government had proffered that Williams had seven previous felony convictions (DE:30:1).

backpack, and raced into a nearby club (DE38:2). Police caught Williams and searched the car (DE38:2). They found a Glock pistol next to the driver's seat on the floorboard (DE38:2). The Glock had an extended, 31-round magazine and was chamber loaded (DE38:2). Police also found a wallet with Williams's license, $1,043 in small-denominated bills, and two cell phones (DE38:2). Law enforcement found fentanyl, para-flourofentanyl, and cocaine in Williams's backpack (DE38:2-3). They also found "12 empty capsules commonly used by drug distributors to sell narcotics" (DE38:2-3). Williams admitted that the backpack was his (DE38:3). DNA analysis strongly suggested that DNA on the Glock came from Williams (DE38:3). Williams had a previous felony conviction and knew he was a convicted felon (DE:38:2).

## 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 Williams 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). Williams 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 Williams'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).

Williams 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 Williams argues (Br. at 14). *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. Williams'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 Williams 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 Williams'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,

Jason A. Reding Quiñones
United States Attorney

By: */s/ Christian Harris*
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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 1,951 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 November 18, 2025, the foregoing motion for summary affirmance was filed by CM/ECF and served via CM/ECF on Hector A. Dopico, Federal Public Defender, Federal Public Defender's Office, and on M. Caroline McCrae, Assistant Federal Public Defender, counsel for Mario Martinez Williams.

*/s/ Christian Harris*
Christian Harris
Assistant United States Attorney

***ags***

**A-3**

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

**CASE NO.** 24-cr-80114-Cannon/McCabe

**21 U.S.C. § 841(a)(1)**
**18 U.S.C. § 924(c)**
**18 U.S.C. § 922(g)(1)**
**21 U.S.C. § 853**
**18 U.S.C. § 924(d)(1)**

**UNITED STATES OF AMERICA**

**vs.**

**MARIO MARTINEZ WILLIAMS,**

**Defendant.**

_____/



**INDICTMENT**

The Grand Jury charges that:

**COUNT 1**
**Possession with Intent to Distribute a Controlled Substance**
**(21 U.S.C. § 841(a)(1) and (b)(1)(C))**

On or about June 20, 2024, in Palm Beach County, in the Southern District of Florida, the defendant,

**MARIO MARTINEZ WILLIAMS,**

did knowingly and intentionally possess with intent to distribute a controlled substance, in violation of Title 21, United State Code, Section 841(a)(1).

Pursuant to Title 21, United States Code, Section 841(b)(1)(C), it is further alleged that this offense involves a mixture and substance containing a detectable amount of N-phenyl-N-[1-(2-

phenylethyl)-4-piperidinyl] propanimide, commonly known as Fentanyl, a Schedule II controlled substance; a mixture and substance containing a detectable amount of Para-fluorofentanyl, a Schedule I controlled substance; and a mixture and substance containing a detectable amount of Cocaine, a Schedule II controlled substance.

**COUNT 2**
**Possession of a Firearm in Furtherance of a Drug Trafficking Crime**
**(18 U.S.C. § 924(c)(1)(A)(i))**

On or about June 20, 2024, in Palm Beach County, in the Southern District of Florida, the defendant,

**MARIO MARTINEZ WILLIAMS,**

did knowingly carry a firearm during and in relation to, and did knowingly possess a firearm in furtherance of, a drug trafficking crime, as set forth in Count 1 above, for which the defendant may be prosecuted in a court of the United States, in violation of Title 18, United States Code, Section 924(c)(1)(A)(i).

**COUNT 3**
**Felon in Possession of a Firearm**
**(18 U.S.C. § 922(g)(1))**

On or about June 20, 2024, in Palm Beach County, in the Southern District of Florida, the defendant,

**MARIO MARTINEZ WILLIAMS,**

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).

It is further alleged that the firearm and ammunition are:

a.) One (1) Glock, model 17, 9mm semi-automatic pistol; and

b.) Thirty-one (31) rounds of "Remington Peters" 9mm ammunition.

## 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, **MARIO MARTINEZ WILLIAMS,** has an interest.

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

3. Upon conviction of a violation of Title 21, United States Code, Section 841, as alleged in this Indictment, the defendant shall forfeit to the United States any property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of such offense, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such offense, pursuant to Title 21, United States Code, Section 853.

All pursuant to Title 21, United States Code, Section 853 and 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

MARKENZY LAPOINTE
UNITED STATES ATTORNEY

EMILY MELISSA WALTERS
ASSISTANT UNITED STATES ATTORNEY

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

**UNITED STATES OF AMERICA**

**v.**

MARIO MARTINEZ WILLIAMS,

_____/
Defendant.

**CASE NO.:** 24-cr-80114-Cannon/McCabe

**CERTIFICATE OF TRIAL ATTORNEY**

**Superseding Case Information:**
New Defendant(s) (Yes or No) _____
Number of New Defendants _____
Total number of new counts _____

**Court Division** (select one)
☐ Miami ☐ Key West ☐ FTP
☐ FTL ☒ WPB

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, Title 28 U.S.C. §3161.
3. Interpreter: (Yes or No) No
   List language and/or dialect: _____
4. This case will take 4 days for the parties to try.
5. Please check appropriate category and type of offense listed below:

| (Check only one) | | (Check only one) | |
|---|---|---|---|
| I | ☒ 0 to 5 days | ☐ | Petty |
| II | ☐ 6 to 10 days | ☐ | Minor |
| III | ☐ 11 to 20 days | ☐ | Misdemeanor |
| IV | ☐ 21 to 60 days | ☒ | Felony |
| V | ☐ 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 6/20/2024
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 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 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 now Magistrate Judge Marta Fulgueira Elfenbein during her tenure at the U.S. Attorney's Office, which concluded on March 5, 2024? No

By: _____
EMILY WALTERS
Assistant United States Attorney
FL Bar No. 98826

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

PENALTY SHEET

**Defendant's Name**: Mario Martinez Williams

**Case No**: 24-cr-80114-Cannon/McCabe

Count # 1:

Possession with Intent to Distribute a Controlled Substance

Violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C)
*** Max. Term of Imprisonment: 20 years**
*** Mandatory Min. Term of Imprisonment (if applicable): n/a**
*** Max. Supervised Release: At least 3 years, up to life**
*** Max. Fine: $1,000,000**
*** Special Assessment: $100**

Count # 2:

Possession of a Firearm in Furtherance of a Federal Drug Trafficking Crime

Violation of 18 U.S.C. § 924(c)(1)(A)(i)
*** Max. Term of Imprisonment: Life**
*** Mandatory Min. Term of Imprisonment: 5 years, consecutive to any penalty imposed for Count 1**
*** Max. Supervised Release: 5 years**
*** Max. Fine: $250,000**
*** Special Assessment: $100**

Count # 3:

Possession of a Firearm by a Prohibited Person (Felon)

Violation of 18 U.S.C. § 922(g)(1)
*** Max. Term of Imprisonment: 15 years**
*** Mandatory Min. Term of Imprisonment (if applicable): n/a**
*** Max. Supervised Release: 3 years**
*** Max. Fine: $250,000**
*** Special Assessment: $100**

***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.**

**A-4**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 24-CR-80114-CANNON

UNITED STATES OF AMERICA,
Plaintiff,
v.

MARIO MARTINEZ WILLIAMS,
Defendant.
_____/

**MOTION TO DISMISS COUNT THREE OF THE INDICTMENT**

Mario Martinez Williams, through undersigned counsel, files this motion pursuant to Fed. R. Crim. P. 12(b) to dismiss Count Three of the 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. ___, 144 S.Ct. 1889, 2024 WL 3074728 (U.S. June 21, 2024). In support thereof, he states:

**Factual and Legal Background**

Mr. Williams is charged in Count Three of the 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). Importantly, Mr. Williams's felony criminal history consists of convictions for personal possession of drugs, carrying a concealed firearm, fleeing or attempting to elude, racketeering, and conspiracy to commit racketeering. Importantly, Mr. Williams has never been convicted of any violent offenses. For the reasons set forth in Part C.4 below, this Court should hold § 922(g)(1)

unconstitutional *as applied* to Mr. Williams 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. Williams's alleged conduct is covered by the plain text of the Second Amendment, and the government cannot show § 922(g)(1) as applied to him is consistent with America's historical tradition of firearm regulation—given his non-violent prior convictions—Count Three of 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. Williams'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*, ___ S.Ct. ___, 2024

WL 3259668 (U.S. July 2, 2024) (No. 23-683); *see also Jackson v. United States*, ___ S.Ct. ___, 2024 WL 3259675 (U.S. July 2, 2024) (No. 23-6170). 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. Williams'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. Williams 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. Williams 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. Williams.

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

[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 July 5, 2024) (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).

*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 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-

[2]Carlton 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).

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 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.

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[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).

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. Williams, 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. Williams's offense and lack of any 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 as applied to Mr. Williams 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 as applied to Mr. Williams and dismiss Count Three of the indictment.

Respectfully Submitted,

HECTOR A. DOPICO
FEDERAL PUBLIC DEFENDER

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**CERTIFICATE OF SERVICE**

I HEREBY certify that on November 20, 2024, 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*

**A-5**

| | |
|---|---|
| **From:** | cmecfautosender@flsd.uscourts.gov |
| **To:** | flsd_cmecf_notice@flsd.uscourts.gov |
| **Subject:** | Activity in Case 9:24-cr-80114-AMC USA v. Williams Order on Motion to Dismiss |
| **Date:** | Tuesday, December 10, 2024 9:41:55 AM |

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**U.S. District Court**

**Southern District of Florida**

## Notice of Electronic Filing

The following transaction was entered on 12/10/2024 at 9:40 AM EST and filed on 12/10/2024

**Case Name:** USA v. Williams
**Case Number:** 9:24-cr-80114-AMC
**Filer:**
**Document Number:** 33(No document attached)

**Docket Text:**
**PAPERLESS ORDER DENYING Defendant's Motion to Dismiss Count Three [29] as to Mario Martinez Williams. The Court has reviewed the Motion [29], the United States' Response in Opposition [30], and the full record. Upon review, the Motion is denied under the binding Eleventh Circuit authorities of *United States v. Dubois*, 94 F.4th 1284, 1293 (11th Cir. 2024), and *United States v. Rozier*, 598 F.3d 768, 771 (11th Cir. 2010). See also *United States v. Bass*, No. 23-11551, 2024 WL 3861611, at *3 (11th Cir. Aug. 19, 2024) (unpublished). Signed by Judge Aileen M. Cannon on 12/10/2024. (tci)**

**9:24-cr-80114-AMC-1 Notice has been electronically mailed to:**

Emily Walters emily.walters@usdoj.gov, CaseView.ECF@usdoj.gov, CCollier@usa.doj.gov, usafls-brdkt@usdoj.gov

M Caroline McCrae Caroline_McCrae@fd.org, rosalind_bennett@fd.org

Sandra Demirci Sandra.Demirci@usdoj.gov, carolina.gonzalez@usdoj.gov, maria.pasquier@usdoj.gov

**9:24-cr-80114-AMC-1 Notice has not been delivered electronically to those listed below**

**and will be provided by other means. For further assistance, please contact our Help Desk at 1-888-318-2260.:**

**A-6**

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

UNITED STATES OF AMERICA

v.

**MARIO MARTINEZ WILLIAMS**

**JUDGMENT IN A CRIMINAL CASE**

Case Number: **9:24-CR-80114-CANNON**
USM Number: **37863-511**

Counsel for Defendant: **M. Caroline McCrae**
Counsel for United States: **Shannon O'Shea Darsch**

**THE DEFENDANT:**

| | | |
|---|---|---|
| ☒ | pleaded guilty to counts | **2 and 3 of the indictment** |
| ☐ | pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court. | |
| ☐ | pleaded nolo contendere to count(s) which was accepted by the court | |
| ☐ | was found guilty on count(s) after a plea of not guilty | |

The defendant is adjudicated guilty of these offenses:

| **Title & Section / Nature of Offense** | **Offense Ended** | **Count** |
|---|---|---|
| 18 U.S.C. 924(c)(1)(A)(ii) – Possesion of a Firearm in Furtherance of a Drug Trafficking Crime | 06/20/2024 | 2 |
| 18 U.S.C. 922(g)(1) – Felon in Possession of a Firearm | 06/20/2024 | 3 |

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 1 is 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.

**April 8, 2025**
Date of Imposition of Judgment

Signature of Judge

**AILEEN M. CANNON**
**UNITED STATES DISTRICT JUDGE**
Name and Title of Judge

**April 8, 2025**
Date

DEFENDANT: MARIO MARTINEZ WILLIAMS
CASE NUMBER: 9:24-CR-80114-CANNON

# IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: **132 months, consisting of 72 months' imprisonment as to count 3 to be followed by 60 months' imprisonment as to count 2. Terms to run consecutive**.

☒ The court makes the following recommendations to the Bureau of Prisons:
The respond shall be housed in a facility as close to the Southern District of Florida as possible to facilitate family visitation.

☐ 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: MARIO MARTINEZ WILLIAMS
CASE NUMBER: 9:24-CR-80114-CANNON

## 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: MARIO MARTINEZ WILLIAMS
CASE NUMBER: 9:24-CR-80114-CANNON

# 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: MARIO MARTINEZ WILLIAMS
CASE NUMBER: 9:24-CR-80114-CANNON

## 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: MARIO MARTINEZ WILLIAMS
CASE NUMBER: 9:24-CR-80114-CANNON

# CRIMINAL MONETARY PENALTIES

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

| | Assessment | Restitution | Fine | AVAA Assessment* | JVTA Assessment** |
|---|---|---|---|---|---|
| **TOTALS** | $200.00 | $.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: MARIO MARTINEZ WILLIAMS
CASE NUMBER: 9:24-CR-80114-CANNON

# 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 payment of $200.00 due immediately.

**It is ordered that the Defendant shall pay to the United States a special assessment of $200.00 for Counts 2 and 3 , 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 [ECF No. 37 ¶¶ 9–11]. 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.