No. ___________

In the Supreme Court of the United States

JOHNATHAN ALLEN GREEN,
Petitioner

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition for a Writ of Certiorari
To the United States Court of Appeals
For the Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether courts may categorically reject Second Amendment as-applied challenges to 18 U.S.C. § 922(g)(1) based solely on felony status, or whether *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), and *United States v. Rahimi*, 602 U.S. 680 (2024) require an individualized historical inquiry into whether the petitioner may be permanently disarmed.

2. Whether 18 U.S.C. § 922(g)(1)'s commerce element is satisfied by the mere historical fact that a firearm or ammunition once crossed state lines, or whether the statute and the Commerce Clause require a meaningful, contemporary connection between the defendant's possession and interstate commerce.

PARTIES TO THE PROCEEDINGS

The parties are petitioner, Johnathan Allen Green, and respondent, the United States of America. All parties appear in the caption of the case on the cover page.

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PETITION FOR WRIT OF CERTIORARI

Petitioner, Johnathan Allen Green, respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for Ninth Circuit Court of Appeals, entered in the instant proceeding on February 24, 2026, Ninth Circuit Court of Appeals No. 24-2921.

OPINIONS BELOW

The United States Court of Appeals for the Ninth Circuit issued an unpublished memorandum decision in this matter. App. 1a. See *United States v. Green*, No. 24-2921, 2026 WL 509073 (9th Cir.Feb. 24, 2026) (unpublished). The district court order from which Mr. Green appealed is also unpublished. App. 3a. See *United States v. Green*, No. 21-cr-00047-CJC (C.D. Cal. Apr. 29, 2024).

STATEMENT OF JURISDICTION

The date on which the Ninth Circuit Court of Appeals filed its Memorandum in the instant matter was February 24, 2026. App 1a. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

1. U.S. Const. amend. II: "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."

2. U.S. Const. amend. XIV, § 1: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE AND FACTS

A. Mr. Green's Personal History

Mr. Green was born in 1987 in Santa Ana, California, to Joseph and Patricia Green. PSRs 26. His parents divorced when he was six years old due to his father's substance abuse issues. PSRs 26. Mr. Green's father, a military veteran, struggled with PTSD and heroin addiction, leading to episodes of domestic violence against Mr. Green's mother. PSRs 26-27. He witnessed his father coming home intoxicated, causing frequent arguments and physical abuse. PSRs 27. His mother eventually left, taking Mr. Green and his siblings with her. Although his father remained in his life for a period, he later became unreliable, making promises he failed to keep. PSRs 27.

Mr. Green's mother faced significant financial hardships while raising her children. PSRs 27. As a child, Mr. Green lived in poverty, often relying on food banks. PSRs 27. He was bullied in school for wearing secondhand clothing and because of his absent father. Though he initially did well academically, he struggled with learning in certain areas and was placed in a resource specialist program. PSRs 27. Eventually, he began skipping school and experimenting with alcohol and cannabis. PSRs 27.

Between the ages of seven and ten, Mr. Green lived with his maternal aunt and her husband while his mother was hospitalized. During this time,

he suffered severe physical abuse and neglect. His uncle frequently beat him with a paddleboard, causing his skin to peel and bleed. He was often fed cold food and was once placed inside a pillowcase and locked in a closet. Mr. Green was also sexually abused by his aunt and uncle. His uncle was later arrested for the abuse, but Mr. Green never received treatment for his trauma. PSRs 27.

Despite these challenges, Mr. Green participated in the California Cadet Corps between 1996 and 1999. He attended the Otto A. Fischer School during this period and later earned his high school diploma in 2000 while incarcerated at a youth correctional facility. In 2010, he obtained a medical assistant certification from Everest College. PSRs 30.

Mr. Green built a steady employment history, primarily in the restaurant industry. He worked as a line cook at B.J.'s Brewhouse in Orange, California, from 2014 to 2016 but left after being hit by a vehicle. He later worked at Cheesecake Factory in Brea from 2016 to 2018 before his incarceration. After his release, he was employed at Chipotle in Irvine and Rubio's in Lake Forest before returning to Cheesecake Factory in Anaheim and B.J.'s Brewhouse in Cerritos. He left these positions in 2022 due to his current arrest. PSRs 30.

B. The Alleged Facts Giving Rise to the Instant Conviction

Mr. Green had struggled for years with substance abuse, including alcohol and drug use, as well as mental health challenges, including anxiety, depression, and post-traumatic stress disorder (PTSD). While he was prescribed medication to address his mental health conditions, he discontinued its use in an attempt to manage his symptoms without pharmaceutical intervention. Following the death of his father, Mr. Green began self-medicating with methamphetamine. Although he first experimented with smoking at the age of 10 and began using methamphetamine at 20, his daily use did not commence until his release from state prison in August 2019. He continued to use methamphetamine daily until February 2021. 2-ER-55.

Mr. Green primarily obtained methamphetamine for personal use from an individual known as NFD, whom he met at a Park-and-Ride location across the street from his residence, where he regularly parked his car overnight. 2-ER-55. Although Mr. Green's partner, Ms. Romero, was aware that he consumed alcohol socially and used marijuana recreationally, he concealed his daily methamphetamine use from her and their children. In early February 2021, Ms. Romero began to suspect that he was using methamphetamine due to changes in his sleep patterns.

On or about February 15, 2021, tensions escalated between Mr. Green and Ms. Romero, culminating in a verbal altercation. 2-ER-55; 3-ER-58. On or about February 23, 2021, Ms. Romero asked Mr. Green to leave the apartment, and he departed with all of his belongings, including his firearm and ammunition. 2-ER-55.

After packing his car, Mr. Green drove across the street to the Park-and-Ride, where he encountered NFD, who requested a ride to a friend's house. Mr. Green agreed to provide transportation, at which point NFD placed his belongings, including a bag of methamphetamine, behind the driver's seat before entering the front passenger seat of the vehicle. Mr. Green recognized the bag as containing methamphetamine, as he had previously seen NFD with a similar bag while purchasing small quantities for personal use. 2-ER-55.

At no point during the drive did Mr. Green or NFD smoke methamphetamine. Instead, they stopped at a liquor store, purchased and consumed beer, and then Mr. Green dropped NFD off. Mr. Green later drove to a McDonald's drive-thru just before closing time. After purchasing food, Mr. Green parked in a Walgreens parking lot, where he fell asleep with a firearm lying in the front passenger seat. 2-ER-55.

While Mr. Green was aware that the methamphetamine in the bag

belonged to NFD and was intended for sale, he did not participate in its distribution. His sole involvement was providing a ride to NFD as an accommodation to someone from whom he had previously obtained personal-use quantities of methamphetamine. While he expected to receive free samples, he had no expectation of sharing in the proceeds of any sales. 2-ER-55; 3-ER-300, 493, 495. Correspondingly, the firearm placed on the front passenger seat was never used in connection with the methamphetamine contained in the closed bag behind the driver's seat. 2-ER-56.

On February 24, 2021, at approximately 3:15 a.m., the Fullerton Police Department received a call from an employee at a Walgreens reporting that a male individual appeared to be passed out inside a white sedan with its headlights on. 3-ER-300, 493.

Officers responded and located a white Chevrolet Impala parked with its lights on. A record check confirmed the vehicle was registered to Mr. Green and Ms. Romero. 3-ER-300, 493.

Upon arrival, an officer observed Mr. Green asleep in the driver's seat, leaning toward the front passenger side. A black handgun was visible on the front passenger seat. Several officers recognized Mr. Green from prior encounters and were aware that he was a convicted felon. 3-ER-300, 493, 495.

Officers attempted to wake Mr. Green. When he did not respond, an officer deployed a "less lethal" 40 mm round to shatter the driver's side rear passenger window, gaining a better view inside the vehicle and access to detain Mr. Green. Once awake, Mr. Green complied with the officers' commands and exited the vehicle without incident. He was handcuffed and placed in the back of a police vehicle. 3-ER-300, 493-494.

Although Mr. Green was not on parole or probation, officers repeatedly requested his consent to search his vehicle, which he refused. Despite the lack of consent, Officer O'Neil stated, "We are going in there and searching anyway." The officers proceeded to search the vehicle, including the trunk. 3-ER-300.

Inside the car, officers discovered numerous personal belongings, including multiple bags of clothing and a pet gecko in a cage. The handgun on the front passenger seat was identified as a 9mm pistol. It was loaded with a magazine containing eight rounds of ammunition, though no round was chambered. 3-ER-300, 494.

Behind the driver's seat on the floorboard, officers found a plastic grocery bag containing a black plastic bag. Inside, they located two large Ziplock bags filled with a white crystalline substance suspected to be methamphetamine, along with additional loose methamphetamine at the

bottom of the bag. The total weight of the suspected methamphetamine recovered from the vehicle was approximately 545 grams. 3-ER-299, 494.

During the search, officers also discovered a black “Nc Star” ballistic tactical vest in the trunk, which was later booked into evidence. 3-ER-495.

The firearm and ammunition recovered were analyzed by ATF Special Agent Jeffrey Davis. Agent Davis asserted that the ammunition had been manufactured outside of California and that the firearm and ammunition had been transported across state lines. 3-ER-498.

C. Mr. Green's Arrest, Complaint, Indictment, Detention, and Arraignment

On February 26, 2021, Mr. Green was arrested by federal marshals, and a task force officer filed a criminal complaint by telephone with respect to Mr. Green. 3-ER-482, 490. On March 24, 2021, a federal grand jury in the Central District of California returned an indictment, charging Mr. Green with:

- Count 1: Possession with Intent to Distribute Methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A)(viii) (3-ER-436);
- Count 2: Possession of a firearm in furtherance of a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1)(A)(i)]

(3-ER-438);

- # Count 3: Felon in Possession of a Firearm and Ammunition, in violation of 18 U.S.C. § 922(g)(1) (3-ER-439); and,
- # Count 4: Violent Felon in Possession of Body Armor, in violation of 18 U.S.C. § 931(a) (3-ER-441).

Mr. Green was temporarily detained on March 15, 2021. 3-ER-482, 488-489. The government requested that the court detain Mr. Green pending trial. 3-ER-483-486. Mr. Green opposed the request, which was supported by his life partner, Ms. Romero. 3-ER-470, 453-455, 481. At the March 22, 2021 detention hearing, the district court granted the request for release pending trial. 3-ER-432, 462-464.

Later in the proceeding, and at the government's request, the district court revoked Mr. Green's bond. 3-ER-365-371.

D. The Failed Plea Agreement, Open Plea, and Dismissal of Remaining Count

In September 2021, the government sent a proposed plea agreement for Mr. Green to his then-counsel, Deputy Federal Public Defender Lillian Chu. After extending, per Ms. Chu's request, the acceptance deadline for the plea offer multiple times, the government withdrew the offer in April 2022 after

the last acceptance deadline had lapsed. 2-ER-197.

On January 2, 2024, Mr. Green entered an open guilty plea to Counts 1, 3, and 4 of the indictment. 2-ER-121, 158-159. The district court accepted the plea. 2-ER-121, 159-160.

On January 3, 2024, the government filed a motion to dismiss Count 2 of the Indictment without prejudice. 2-ER-119. The district court granted the motion on the same day it was filed. 2-ER-118.

E. The Sentencing and Appeal

1. The sentencing hearing

On April 29, 2024, the district court convened Mr. Green's sentencing hearing. 1-ER-2, 10. The court determined that Mr. Green's guideline range was 235 to 293 months in custody. 1-ER-12. The district court conducted an analysis under 18 U.S.C. § 3553, and on that basis concluded that the mandatory minimum of 120 months in custody was appropriate, to be followed by five years of supervised release. 1-ER–2, 12-15, 27-30.

2. The appeal

Mr. Green filed a timely notice of appeal of the judgment on May 7, 2024. 3-ER–499. In so doing, counsel for Mr. Green marked the box challenging the "Conviction only." 3-ER-499. The Court of Appeals filed an

unpublished memorandum affirming Mr. Green's conviction on February 24, 2026. App 1a. In so doing, the Court of Appeals relied heavily on *United States v. Duarte*, 137 F.4th 743, 750 (9th Cir.2025) (*en banc*). App 2a.

REASONS FOR GRANTING THE WRIT

I. THIS COURT SHOULD RESOLVE THE RECURRING AND EXCEPTIONALLY IMPORTANT CONFLICT OVER § 922(G)(1)'S CONSTITUTIONALITY.

In the wake of *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), and *United States v. Rahimi*, 602 U.S. 680 (2024), the courts of appeals have fractured, sharply and persistently, over how Second Amendment challenges to 18 U.S.C. § 922(g)(1) must be resolved. The conflict affects thousands of federal prosecutions each year. It is not stray dicta or a panel disagreement awaiting *en banc* resolution. It is a mature, entrenched division among the courts of appeals, and it operates on two levels: the courts disagree about whether § 922(g)(1) may be applied categorically based on felony status alone, and they disagree about the constitutional framework governing as-applied challenges. Whether a federal defendant receives any meaningful opportunity to show that permanent disarmament is inconsistent with this Nation's historical tradition now depends largely on the geographic accident of where he is prosecuted.

The Government itself has acknowledged the importance of the question. Less than two years ago, in seeking this Court's review of the Third

Circuit's *en banc* decision in *Range*, the Solicitor General urged this Court to "grant plenary review" because the circuit split was likely to deepen and had "deeply divided district courts." Suppl. Br. for the Federal Parties at 2, 4, *Garland v. Range*, No. 23-374 (U.S. June 24, 2024). And in yet another response filing, the Solicitor General conceded that "the courts of appeals are divided over Section 922(g)(1)'s constitutionality, and that the question would ordinarily warrant this Court's review." Br. Resp. 3–4, *Vincent v. Garland*, No. 23-683. The Government's prediction was correct. The circuit conflict has only deepened, and it requires this Court's intervention.

This Court has recognized the need to address related post-*Bruen* challenges to federal firearms-disqualification statutes by granting a petition for a writ of certiorari in *United States v. Hemani*, 146 S. Ct. 326 (2025). In this regard, *Hemani* presents the related question whether § 922(g)(3), which prohibits firearm possession by unlawful users of controlled substances, violates the Second Amendment as applied to the respondent.

A. The Courts of Appeals Are Divided over Whether 18 U.S.C. § 922(g)(1) May Be Applied Categorically Based on Felony Status Alone after *Bruen* and *Rahimi*.

1. The Third Circuit requires an as-applied inquiry into whether the government can justify permanent disarmament under the nation's historical tradition of firearm regulation.

In *Range v. Attorney General*, 124 F.4th 218 (3d Cir.2024) (*en banc*), the Third Circuit, sitting *en banc* and on remand from this Court for reconsideration in light of *Rahimi*, held § 922(g)(1) unconstitutional as applied to Bryan Range, whose sole disqualifying conviction was a 1995 misdemeanor for making a false statement to obtain food stamps. The court held that Range remained among "the people" protected by the Second Amendment." *Range*, 124 F.4th at 228, 232. The Court of Appeals further stated that "[b]ecause the Government has not shown that our Republic has a longstanding history and tradition of depriving people like Range of their firearms, § 922(g)(1) cannot constitutionally strip him of his Second Amendment rights." *Id.* at 232. Ten judges joined *Range*'s majority opinion, and three more concurred in the judgment, a strong *en banc* majority that

makes reconsideration within the Third Circuit unlikely.

The Third Circuit has since extended Range's individualized framework in *Pitsilides v. Barr*, 128 F.4th 203, 210, 212, 213 (3d Cir.2025), holding that "the Second Amendment's touchstone is dangerousness," and requiring district courts in as-applied § 922(g)(1) challenges to consider "a convict's entire criminal history and post-conviction conduct indicative of dangerousness, along with his predicate offense and the conduct giving rise to that conviction." The Third Circuit's position is clearly entrenched.

2. The Fifth Circuit has now also held § 922(g)(1) unconstitutional in as-applied challenges, through an offense-specific historical analysis distinct from both the third and ninth circuits.

In *United States v. Diaz*, 116 F.4th 458 (5th Cir.2024), the Fifth Circuit recognized that *Bruen* required individualized historical analysis of § 922(g)(1) challenges. In so doing, the Court of Appeals held that "[s]imply classifying a crime as a felony does not meet the level of historical rigor required by *Bruen* and its progeny," *Id.* at 469. It announced a framework requiring the Government to "demonstrate that the Nation has a longstanding tradition of disarming someone with a criminal history

analogous to" the challenger's. *Id.* at 467, 469. As the Fifth Circuit put it, "not all felons today would have been considered felons at the Founding," and "[s]uch a shifting benchmark should not define the limits of the Second Amendment, without further consideration of how that right was understood when it was first recognized." *Id.* at 469.

The Fifth Circuit has applied the *Diaz* framework to invalidate § 922(g)(1) as applied. In *United States v. Cockerham*, 162 F.4th 500, 504 (5th Cir.2025), the Court of Appeals reversed the conviction of a defendant, holding that "there was no historical justification to disarm him at that moment – never mind for the rest of his life." *Id.* at 504. In *United States v. Mitchell*, 160 F.4th 169, 194 (5th Cir.2025), the Fifth Circuit reversed a § 922(g)(1) conviction where the predicate was a § 922(g)(3) offense based on habitual marijuana use, finding no Founding-era tradition supporting permanent disarmament of regular drug users.

By contrast, the Fifth Circuit has rejected as-applied challenges by defendants whose predicate offenses were violent or otherwise historically analogous to permanently disarmable offenses. See *United States v. Kimble*, 142 F.4th 308, 315–17 (5th Cir.2025); *United States v. Morgan*, 147 F.4th 522, 528 (5th Cir.2025); *United States v. McCree*, 160 F.4th 641, 645-646 (5th

Cir.2025). The Fifth Circuit's approach thus parts company with both sides of the principal split. It neither adopts the Third Circuit's broader dangerousness inquiry nor accepts the categorical rule for all felons that other circuits have adopted, as discussed below. It instead conducts a predicate-offense-specific historical analysis that has produced relief in some cases and not others, confirming that the Fifth Circuit "diverg[es] from the majority of circuits." *United States v. Mancilla*, 155 F.4th 449, 454 n. 5 (5th Cir.2025) (Elrod, J., concurring).

The Fifth Circuit in *Mancilla* summarized the divergence as follows:

> There is already a robust circuit split on this issue. In the wake of *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. 1, 142 S.Ct. 2111, 213 L.Ed.2d 387 (2022), and *United States v. Rahimi*, 602 U.S. 680, 144 S.Ct. 1889, 219 L.Ed.2d 351 (2024), many of our sister circuits have held that § 922(g)(1) is constitutional as applied to all felons. The Second, Fourth, Eighth, and Ninth Circuits have done so based in part on prior precedent and based in part on historical analysis. See *Zherka v. Bondi*, 140 F.4th 68, 74–75, 77–79, 91–93 (2d Cir. 2025); *United States v. Hunt*, 123 F.4th 697, 700 (4th Cir.2024), cert. denied, —— U.S. ——, 145 S. Ct. 2756, 222 L.Ed.2d 1046 (2025); *United States v. Jackson*, 110 F.4th 1120, 1125–26 (8th Cir.), reh'g en banc denied, 121 F.4th 656 (8th Cir. 2024), cert. denied, —— U.S. ——, 145 S. Ct. 2708, 221 L.Ed.2d 970 (2025); *United States v. Duarte*, 137 F.4th 743, 750–52, 761–62 (9th Cir. 2025) (*en banc*). The Tenth and Eleventh Circuits have relied entirely on prior precedent upholding § 922(g)(1). See *Vincent v. Bondi*, 127 F.4th 1263, 1265–66 (10th Cir.2025), petition for cert. filed, No.

24-1155 (U.S. May 12, 2025); *United States v. Dubois*, 139 F.4th 887, 888–89 (11th Cir.2025).

By contrast, the Third and Sixth Circuits allow as-applied challenges to § 922(g)(1), and both circuits require district courts to make individualized determinations of dangerousness when adjudicating those challenges. See *Pitsilides v. Barr*, 128 F.4th 203, 210, 213 (3d Cir.2025) (involving a plaintiff's request for a declaratory judgment entitling him to possess a firearm in the future); *United States v. Williams*, 113 F.4th 637, 657, 663 (6th Cir.2024) (Thapar, J.) (resolving an appeal of a § 922(g)(1) conviction). Courts in those circuits consider the person's entire criminal history, including the predicate offense and its underlying conduct. See *Pitsilides*, 128 F.4th at 212–13; Williams, 113 F.4th at 663.

The First Circuit does not appear to have yet reviewed an as-applied challenge de novo. See *United States v. Langston*, 110 F.4th 408, 419–20 (1st Cir.) (rejecting challenge under plain error review), cert. denied, —— U.S. ——, 145 S. Ct. 581, 220 L.Ed.2d 223 (2024). The Seventh Circuit has assumed arguendo that there is some room for as-applied challenges, but it appears to have thus far rejected them. See *United States v. Gay*, 98 F.4th 843, 846–47 (7th Cir.2024) (concluding that the defendant was "not a 'law-abiding, responsible' person" (citation omitted)).

Mancilla, 155 F.4th at 454 n. 5.

3. The Sixth Circuit requires an individualized dangerousness inquiry as a constitutional floor.

The Sixth Circuit has charted yet a third doctrinal path. In *United States v. Williams*, 113 F.4th 637 (6th Cir.2024), the Court of Appeals rejected the notion that "courts should simply defer to Congress" as "inconsistent with Heller" and its rejection of rational-basis review. *Id.* at 660. It held that legislatures may disarm classes of persons they believe are dangerous so long as members of that class have an opportunity to show they are not dangerous. *Id.* at 663. *Williams* required courts to consider "each individual's specific characteristics" in adjudicating as-applied challenges, and to look at a defendant's "entire criminal record" rather than the bare predicate offense. *Id.* at 663. The Court of Appeals rejected Williams's challenge only because his record, including aggravated robbery and attempted murder, placed him within the dangerousness category. *Id.* at 661–62. The Court of Appeals signaled that non-dangerous offenders convicted of "mail fraud, tax fraud, or making false statements" may stand differently. *Id.* at 663.

The Sixth Circuit has reaffirmed and applied this dangerousness framework repeatedly. See *United States v. Goins*, 118 F.4th 794, 803–05 (6th Cir.2024); *United States v. Morton*, 123 F.4th 492, 500 (6th Cir.2024). The Sixth Circuit's approach, like the Fifth's, cannot be reconciled with the Ninth

Circuit's categorical rule, as discussed below. A defendant whose record could not sustain a finding of present dangerousness would prevail in the Sixth Circuit while losing in the Ninth.

4. The Ninth Circuit categorically rejects as-applied challenges based on felony status alone.

In *United States v. Duarte*, 137 F.4th 743 (9th Cir.2025) *(en banc*), the Ninth Circuit expressly "align[ed] [it]self with the Fourth, Eighth, Tenth and Eleventh Circuits," in holding that no individualized dangerousness inquiry is constitutionally required and that the predicate offense's character is immaterial to the as-applied analysis. *Id.* at 748, 761–62.

Duarte's *en banc* majority reasoned that Founding-era punishments such as death and estate forfeiture for felons supplied historical justification for the "lesser restriction" of permanent disarmament, and that prior case references to "presumptively lawful" felon-in-possession laws foreclosed felony-by-felony as-applied review. *Duarte*, 137 F.4th 749-751, 756.

But, *Duarte* did not command unanimity. Judge Collins concurred only in the judgment, lamenting that the majority's reasoning reduced *Bruen* to "rational basis review" under which "Second Amendment rights effectively exist only at the sufferance of the legislature."*Duarte*, 137 F.4th at 766-767 (Collins, J., concurring in the judgment). Judge VanDyke, joined in part by

Judges Ikuta and R. Nelson, dissented in part, criticizing the majority's reliance on "'cherry[-]picked' language that is 'mis- and over-applied' from the Court's prior precedents," and arguing that the majority granted legislatures carte blanche authority to disarm any disfavored groups. *Id.* at 801 (VanDyke, J., concurring in part and dissenting in part).

5. The Second, Fourth, Eighth, Tenth, and Eleventh Circuits stand with the ninth on the outcome but reach the result by different routes.

Five other circuits agree with the Ninth Circuit's outcome, but each does so for materially different reasons, itself a sign of doctrinal disarray rather than convergence.

The Second Circuit, in *Zherka v. Bondi*, 140 F.4th 68 (2d Cir.2025), held that § 922(g)(1) is constitutional both facially and as applied, regardless of the nature of the crime of conviction. *Id.* at 93, 96. *Zherka* purported to perform a fresh historical analysis under *Bruen* and *Rahimi*, and rejected any requirement of an individualized dangerousness determination. *Id.* at 74–75, 93, 96. Notably, *Zherka* "acknowledge[d] and [was] sympathetic to the fact that felon-in-possession laws have contributed to the mass incarceration crisis and its associated racial inequalities," but held that any relief must come from Congress. *Id.* at 93.

The Fourth Circuit, in *United States v. Hunt*, 123 F.4th 697 (4th Cir.2024), did not conduct independent historical analysis under *Bruen*. Instead, it held that its pre-*Bruen* decision in *Hamilton v. Pallozzi*, 848 F.3d 614 (4th Cir.2017), under which "[a] felon cannot be returned to the category of 'law-abiding, responsible citizens' for the purposes of the Second Amendment . . . unless the felony conviction is pardoned or the law defining the crime of conviction is found unconstitutional or otherwise unlawful,"remained binding because it could be read "harmoniously" with *Bruen* and *Rahimi*. *Hunt*, 123 F.4th at 700, 703, The Fourth Circuit thus categorically forecloses as-applied challenges. *Id.* at 707–08. And, it has reaffirmed *Hunt* repeatedly. See, e.g., *United States v. Whitted*, No. 23-4522, 2025 WL 3187997 (4th Cir.Nov. 14, 2025); *Collins v. Bondi*, No. 23-2218, 2025 WL 1409861 (4th Cir.May 15, 2025).

The Eighth Circuit, in *United States v. Jackson*, 110 F.4th 1120 (8th Cir.2024), held that there is no need for felony-by-felony litigation regarding the constitutionality of § 922(g)(1), because "legislatures traditionally employed status-based restrictions to disqualify categories of persons from possessing firearms," *Id.* at 1125, 1129. The Court of Appeals denied rehearing *en banc* over a forceful dissent by Judge Stras, joined by Judges Erickson, Grasz, and Kobes, who explained that what *Jackson* says about as-applied challenges conflicts with both the Second Amendment's text and

the Eighth Circuit's precedents, and "deprives tens of millions of Americans of their right 'to keep and bear Arms' for the rest of their lives . . . without a finding of a credible threat to the physical safety of others or a way to prove that a dispossessed felon no longer poses a danger." *United States v. Jackson*, 121 F.4th 656, 656–57 (8th Cir.2024) (Stras, J., dissenting from denial of rehearing en banc). "Other courts," Judge Stras observed, "have not made the same mistake." *Id.* at 658.

The Tenth Circuit, in *Vincent v. Bondi*, 127 F.4th 1263 (10th Cir. 2025), declined to perform any *Bruen* analysis. On remand from this Court for reconsideration in light of *Rahimi*, the Tenth Circuit held that its pre-*Bruen* decision in *United States v. McCane*, 573 F.3d 1037 (10th Cir. 2009), which had relied entirely on this Court's "presumptively lawful" dictum, had not been "indisputably and pellucidly abrogated" and therefore remained binding. *Vincent*, 127 F.4th at 1265. The court "depart[ed] from the Sixth Circuit's approach," and held § 922(g)(1) constitutional as applied to all felons. *Id.* at 1265–66.

The Eleventh Circuit, in *United States v. Dubois*, 94 F.4th 1284 (11th Cir.2024), vacated, 145 S. Ct. 1041 (2025), reinstated, 139 F.4th 887 (11th Cir.2025), similarly declined to conduct independent historical analysis. It held that its pre-*Bruen* decision in *United States v. Rozier*, 598 F.3d 768 (11th

Cir.2010), was not abrogated by *Bruen* or *Rahimi*, and that *Rozier*'s reading of this Court’s decisions "as limiting the right to 'law-abiding and qualified individuals' and as clearly excluding felons from those categories" controlled. *Dubois*, 94 F.4th 1291, 1293. The Eleventh Circuit thus disposes of as-applied challenges before reaching either the text or history of the Second Amendment.

Three circuits, the Fourth, Tenth, and Eleventh, therefore reject as-applied challenges by relying on pre-*Bruen* circuit precedent rather than on the historical analysis *Bruen* requires. The Second and Eighth Circuits conduct historical analysis but reach categorical results. The Ninth Circuit splits the difference, conducting some historical analysis but reaching a categorical outcome. None applies the Sixth Circuit's individualized dangerousness inquiry, the Third Circuit's broader *Range* analysis, or the Fifth Circuit's predicate-specific approach.

6. The Split Is Outcome-Determinative and Doctrinally Deep.

The split among the circuits is not academic. The Ninth Circuit rejected petitioner’s claim as foreclosed by *Duarte*, which held that § 922(g)(1) is not unconstitutional as applied based on felony status alone. *Duarte*, 137 F.4th at 748. In the Third Circuit, petitioner would have received the *Range/Pitsilides*

dangerousness inquiry. In the Sixth Circuit, he would have received the individualized inquiry required by *Williams*. In the Fifth Circuit, his conviction would have been tested under the predicate-specific historical analysis applied in *Cockerham* and *Mitchell*. The place of prosecution was therefore outcome-determinative.

The split is also doctrinally deep. The circuits disagree on whether dangerousness is the touchstone, whether courts must examine the predicate offense or the whole person, whether individualized review is required, and whether *Bruen* displaced pre-*Bruen* precedent relying on this Court's "presumptively lawful" language found in *D.C. v. Heller*, 554 U.S. 570, 626-627 & n.26 (2008). This Court's review is needed to resolve that conflict and clarify what *Bruen* and *Rahimi* require in challenges to the Nation's most frequently litigated firearms statute.

B. THE QUESTION PRESENTED IS EXCEPTIONALLY IMPORTANT AND FREQUENTLY RECURRING.

The conflict among the courts of appeals would warrant review even if § 922(g)(1) were rarely enforced. But § 922(g)(1) is the most frequently prosecuted federal firearms offense and accounts for a substantial share of federal criminal litigation. In fiscal year 2024 alone, the United States Sentencing Commission reported 7,419 § 922(g) convictions, out of 61,678 total federal cases. See *U.S. Sent'g Comm'n, Quick Facts: Section 922(g) Firearms* (FY 2024). Firearms cases as a category accounted for 13% of all federal sentencings; nearly two-thirds of those firearms cases, roughly 5,400 cases, involved illegal possession of a firearm by a convicted felon. See U.S. Sent'g Comm'n, *2024 Annual Report* at p. 13, 18.

The burden of § 922(g)(1) enforcement also falls disproportionately on Black and Latino defendants, a fact courts on both sides of the split have acknowledged. According to Sentencing Commission data, 58.1% of federal felon-in-possession defendants are Black, 17.1% are Latino, and 20.8% are White. See U.S. Sent’g Comm’n, *Quick Facts: Felon in Possession of a Firearm* (FY 2024); see also U.S. Sent’g Comm’n, *2024 Annual Report*.

The Court may choose to hold this petition pending *Hemani*, 146 S. Ct. 326, which concerns § 922(g)(3)’s prohibition on firearm possession by

unlawful users of controlled substances. If *Hemani* affects the reasoning below, a grant, vacate, and remand would be available. But *Hemani* is unlikely to fully resolve the conflict over § 922(g)(1). It involves a different subsection, a different class of persons, and a different historical inquiry. The § 922(g)(1) split turns on issues specific to felon disarmament, including categorical versus individualized dangerousness, predicate-offense analysis, and the continued force of pre-*Bruen* precedent relying on *Heller*'s "presumptively lawful" language.

The conflict therefore warrants plenary review, whether now or after *Heman*i is decided. The question is exceptionally important, frequently recurring, and ripe for this Court's resolution. The petition should be granted.

II. THIS COURT'S REVIEW IS WARRANTED ON THE IMPORTANT AND RECURRING QUESTION WHETHER § 922(g)(1), AS CURRENTLY INTERPRETED, EXCEEDS CONGRESS'S COMMERCE CLAUSE AUTHORITY.

Congress has made it a federal crime for several categories of persons, including persons convicted of felonies, to possess firearms or ammunition "in or affecting commerce." 18 U.S.C. § 922(g). Under the prevailing interpretation of that language, the government need not prove that the defendant's possession was commercial, that it occurred in interstate commerce, or that it had any present effect on interstate commerce. It is enough to show that the firearm or ammunition crossed state lines at some point in the past. See *Scarborough v. United States*, 431 U.S. 563, 575 (1977); *United States v. Davis*, 242 F.3d 1162, 1162-63 (9th Cir.2001).

That holding presents an important and recurring constitutional question. Section 922(g) is one of the most commonly prosecuted federal criminal statutes. In fiscal year 2024, of the more than 61,000 cases reported to the Sentencing Commission, more than 7,400 involved convictions under § 922(g), and more than 90 percent of those convictions were under § 922(g)(1). See U.S. Sentencing Comm'n, *Quick Facts: 18 U.S.C. § 922(g) Firearms Offenses Fiscal Year 2024*. The question whether Congress may federalize

ordinary intrastate firearm possession based solely on a firearm's prior movement in commerce therefore affects thousands of criminal prosecutions each year.

Recent judicial opinions confirm that the issue warrants this Court's review. In a recent dissent, Justice Thomas observed that he "doubt[ed] that § 922(g)(8) is a proper exercise of Congress's power under the Commerce Clause." *Rahimi*, 602 U.S. at 765 n.6 (Thomas, J., dissenting). In a Fifth Circuit opinon, Judge Willett, joined by Judge Duncan, wrote separately to explain that he "harbor[ed] doubts that § 922(g)(1) is constitutional," at least as federal courts have interpreted it. *United States v. Bonner*, 159 F.4th 338, 340-43 (5th Cir.2025) (Willett, J., joined by Duncan, J., concurring). And in yet another opinion, Judge Willett reiterated his willingness "to reconsider[] whether § 922(g)(1) truly falls within Congress's enumerated powers." *United States v. Hembree*, 165 F.4th 909, 921 (5th Cir.2026) (Willett, J., concurring).

Those concerns are well founded. Congress does not possess a general police power. *United States v. Morrison*, 529 U.S. 598, 607 (2000). Nor may Congress "'punish felonies generally.'" *Bonner*, 159 F.4th at 340-41 & n.6 (Willett, J., concurring). The Constitution reserves general criminal law enforcement to the States, leaving Congress only the powers enumerated in Article I. *United States v. Lopez*, 514 U.S. 549, 566-67 (1995).

The Commerce Clause gives Congress power "[t]o regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." U.S. Const. art. I, § 8, cl. 3. In *Lopez*, this Court identified three categories of activity Congress may regulate under that power: the channels of interstate commerce, the instrumentalities of interstate commerce, and activities that substantially affect interstate commerce. *Lopez*, 514 U.S. at 558-59. Mere possession of a firearm by a person previously convicted of a felony does not fit comfortably within any of those categories. It is not use of a channel of interstate commerce. It is not regulation of an instrumentality of interstate commerce. And, like possession of a firearm in a school zone as discussed in *Lopez*, it "has nothing to do with 'commerce' or any sort of economic enterprise, however broadly one might define those terms." *Id.* at 561.

Nor can § 922(g)(1), as applied to ordinary intrastate possession, be sustained by aggregating the effects of all firearm possession by persons with felony convictions. This Court has made clear that aggregation is appropriate, if at all, when Congress regulates economic activity. See *Lopez*, 514 U.S. at 567; *Morrison*, 529 U.S. at 617-18. See also, *Bonner*, 159 F.4th at 342 (Willett, J., joined by Duncan, J., concurring). But firearm possession is not economic activity. As *Lopez* explained in striking down the Gun-Free School Zones Act,

"[t]he possession of a gun in a local school zone is in no sense an economic activity that might, through repetition elsewhere, substantially affect any sort of interstate commerce." *Lopez*, 514 U.S. at 567. The same is true of mere intrastate possession by a person with a prior felony conviction.

The theory underlying Mr. Green's conviction in the instant matter rests on the proposition that Congress may criminalize possession of any firearm or ammunition so long as the item once crossed state lines. That theory has no real limiting principle. If the prior interstate movement of an object, at some unknown point in the past, is enough to support federal criminal jurisdiction over its present intrastate possession, then almost no possession offense remains beyond Congress's commerce power. See *United States v. Seekins*, 52 F.4th 988, 990 (5th Cir.2022) (Ho, J., joined by Smith and Engelhardt, JJ., dissenting from denial of rehearing *en banc*) ("If it's enough that some object (or component of an object) at some unknown (and perhaps unknowable) point in time traveled across state lines to confer federal jurisdiction, it's hard to imagine anything that would remain outside the federal government's commerce power.").

That result is inconsistent with *Lopez*, *Morrison*, and the basic principle that the federal government is one of limited and enumerated powers. It also intrudes on traditional state authority over criminal law. As this Court has

explained, the States possess broad authority to enact laws for the public good, often described as the police power. *Bond v. United States*, 572 U.S. 844, 854 (2014). The federal government does not. *Id.* Yet the minimal-nexus rule effectively converts § 922(g)(1) into a broad federal police-power statute.

The source of that expansive theory is not the constitutional text. It is *Scarborough*. But *Scarborough* does not resolve the constitutional question presented here. In *Scarborough*, this Court construed § 922(g)(1)'s predecessor and held that Congress intended to require only "the minimal nexus that the firearm have been, at some time, in interstate commerce." *Scarborough*, 431 U.S. at 575. But Congress's statutory intent and Congress's constitutional authority are different questions. *Scarborough* predated *Lopez*, did not apply *Lopez*'s framework, and did not decide whether the Commerce Clause permits Congress to criminalize present intrastate possession based solely on a firearm's prior movement across state lines. See *Bonner*, 159 F.4th at 342 n.22 (Willett, J., concurring) ("Scarborough addresses only questions of statutory construction, and does not expressly purport to resolve any constitutional issue.") (internal quotation marks omitted); *Seekins,* 52 F.4th at 991 (Ho, J., dissenting from denial of rehearing en banc) (explaining that *Scarborough* was statutory, not constitutional, and predated *Lopez*).

This case also presents the related statutory interpretation question

whether § 922(g)(1)'s phrase "possess in or affecting commerce" should be read to require a meaningful, contemporary connection between the possession and interstate commerce. The statute does not say "possess a firearm that has ever traveled in interstate commerce." It prohibits possession "in or affecting commerce." 18 U.S.C. § 922(g)(1). That language naturally suggests a present connection between the possession and interstate commerce. At minimum, the statute is susceptible to that narrower reading. And where a statute is susceptible to more than one interpretation, this Court ordinarily adopts the construction that avoids serious constitutional concerns. *Clark v. Martinez*, 543 U.S. 371, 380-81 (2005); *United States v. Williams*, 553 U.S. 285, 307 (2008).

Mr. Green's case cleanly presents the problem. Mr. Green entered an open guilty plea. There was no written plea agreement and no stipulated factual basis. At the change-of-plea hearing, the government stated only that "[t]he firearm and ammunition had been shipped or transported from one state to another or from a foreign nation to the United States, from one state to another." 2-ER-139. No additional facts connected Mr. Green's possession to interstate commerce. There was no allegation that his possession was commercial, that he transported the firearm or ammunition across state lines, that he received the firearm or ammunition in interstate commerce, or that

his possession had any present effect on interstate commerce.

The Ninth Circuit did not reject that Mr. Green's claim on the ground that his conviction had violated the Commerce Clause because it found a meaningful commercial nexus. It rejected the claim because circuit precedent foreclosed it. The Court stated that Mr. Green's Commerce Clause challenge was foreclosed by *Davis*, 242 F.3d at 1162-63. App. 2a. That disposition confirms the need for this Court's review. The lower courts remain bound by the minimal-nexus rule, even though that rule rests on a statutory decision that did not decide the constitutional question and predates this Court's modern Commerce Clause cases.

This Court has already recognized the danger of allowing *Scarborough* to displace the constitutional limits reaffirmed in *Lopez*. Justice Thomas explained in a dissenting from the denial of certiorari:

> Fifteen years ago in *Lopez*, we took a significant step toward reaffirming this Court's commitment to proper constitutional limits on Congress' commerce power. If the *Lopez* framework is to have any ongoing vitality, it is up to this Court to prevent it from being undermined by a 1977 precedent that does not squarely address the constitutional issues.

Alderman v. United States, 562 U.S. 1163, 1164 (2011) (Thomas, J., dissenting from denial of certiorari).

That warning has proved correct. The courts of appeals continue to

uphold § 922(g)(1) based on the bare fact that a firearm or ammunition once crossed state lines. That holding allows Congress to reach purely local, noneconomic possession and leaves no meaningful limit on federal power over ordinary possession offenses. This Court should grant review to decide whether § 922(g)(1), as currently interpreted, exceeds Congress's Commerce Clause authority and whether the statute should instead be construed to require a meaningful, contemporary connection between the defendant's possession and interstate commerce.

CONCLUSION

For the foregoing reasons, this Court should grant the petition for a writ of certiorari and set the case for plenary review on both questions presented: whether § 922(g)(1) may be applied categorically based on felony status alone, and whether § 922(g)(1)'s commerce element may be satisfied solely by the historical fact that a firearm or ammunition once crossed state lines.

If the Court is inclined to hold this petition pending its decision in *Hemani*, 146 S. Ct. 326, Mr. Green respectfully requests that, after *Hemani* is decided, the Court grant plenary review. Alternatively, if the Court declines plenary review after *Hemani*, it should grant the petition, vacate the judgment below, and remand for further consideration in light of *Hemani*.

Dated: May 23, 2026

Respectfully submitted,

/s/ *Andrea R. St. Julian*

Andrea R. St. Julian
Attorney for Defendant-Appellant,
JOHNATHAN ALLEN GREEN

APPENDICES

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

FEB 24 2026

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHNATHAN ALLEN GREEN,

Defendant - Appellant.

No. 24-2921

D.C. No.
8:21-cr-00047-CJC-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Cormac J. Carney, District Judge, Presiding

Submitted February 18, 2026**

Before: CALLAHAN, FRIEDLAND, and BRESS, Circuit Judges.

Johnathan Allen Green appeals his conviction by guilty plea to possession with intent to distribute methamphetamine, being a felon in possession of a firearm and ammunition, and being a violent felon in possession of body armor, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A)(viii) and 18 U.S.C. §§ 922(g)(1),

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* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

931(a). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Green first contends that his guilty plea was not knowing and voluntary, and was taken in violation of Federal Rule of Criminal Procedure 11, because 18 U.S.C. § 922(g)(1) is unconstitutional as applied to him as a purported nonviolent felon. This claim is foreclosed. *See United States v. Duarte*, 137 F.4th 743, 750 (9th Cir. 2025) (en banc) ("[Section] 922(g)(1) is constitutional as applied to non-violent felons[.]"), *cert. denied*, __ S. Ct. __, 2026 WL 135692 (U.S. Jan. 20, 2026). As Green concedes, his claim that § 922(g)(1) violates the Commerce Clause is also foreclosed. *See United States v. Davis*, 242 F.3d 1162, 1162-63 (9th Cir. 2001).

We decline to consider Green's claim of ineffective assistance of counsel because, contrary to Green's assertion, neither exception to the rule against review of such claims on direct appeal applies here. *See United States v. McKenna*, 327 F.3d 830, 845 (9th Cir. 2003). We also do not reach Green's challenge to the district court's denial of his motion to suppress because he waived that issue when he entered an unconditional guilty plea. *See United States v. Lopez-Armenta*, 400 F.3d 1173, 1175 (9th Cir. 2005).

AFFIRMED.

United States District Court
Central District of California

UNITED STATES OF AMERICA vs. **Docket No.** SACR 21-00047-CJC

Defendant JOHNATHAN ALLEN GREEN **Social Security No.** 5 4 9 9

akas: Also Known As: Green, Jerome; Sanders, Tony (Last 4 digits)

JUDGMENT AND PROBATION/COMMITMENT ORDER

MONTH	DAY	YEAR
04	29	2024

In the presence of the attorney for the government, the defendant appeared in person on this date.

COUNSEL Robison Harley, Jr, CJA
(Name of Counsel)

PLEA [X] **GUILTY,** and the court being satisfied that there is a factual basis for the plea. [ ] **NOLO CONTENDERE** [ ] **NOT GUILTY**

FINDING There being a finding/verdict of **GUILTY,** defendant has been convicted as charged of the offense(s) of:

Possession with Intent to Distribute Methamphetamine in violation of 21 U.S.C. § 841(a)(1),(b)(1)(A)(viii) as charged in Count 1 of the Indictment.

Felon in Possession of a Firearm and Ammunition in violation of 18 U.S.C. § 922(g)(1) as charged in Count 3 of the Indictment.

Violent Felon in Possession of Body Armor in violation of 18 U.S.C. § 931(a) as charged in Count 4 of the Indictment.

JUDGMENT AND PROB/ COMM ORDER The Court asked whether there was any reason why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that pursuant to the Sentencing Reform Act of 1984, the defendant, JOHNATHAN ALLEN GREEN, be committed on Counts 1, 3, and 4 of the Indictment to the custody of the Bureau of Prisons to be imprisoned for a term of **ONE HUNDRED TWENTY (120) MONTHS. This term consists of 120 months on Count 1, 120 months on Count 3, and 36 months on Count 4 of the Indictment, to be served concurrently with each other.**

The defendant shall pay to the United States a special assessment of $300, which is due immediately. Any unpaid balance shall be due during the period of imprisonment, at the rate of not less than $25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program.

Pursuant to Guideline §5E1.2(a), all fines are waived as the Court finds that the defendant has established that he is unable to pay and is not likely to become able to pay any fine.

The Court recommends that the Bureau of Prisons conduct a mental health evaluation of the defendant and provide all necessary treatment. The Court further recommends that the Bureau of Prisons evaluate the defendant for participation in the Bureau of Prisons' 500-hour Residential Drug Abuse Program (RDAP).

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of five (5) years. This term consists of 5 years on Count 1, and 3 years on each of Counts 3 and 4 of the Indictment, all such terms to run concurrently under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the United States Probation & Pretrial Services Office and Second Amended General Order 20-04.

2. During the period of community supervision, the defendant shall pay the special assessment in accordance with this judgment's orders pertaining to such payment.

3. The defendant shall cooperate in the collection of a DNA sample from the defendant.

4. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from custody and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the Probation Officer.

5. The defendant shall participate in an outpatient substance abuse treatment and counseling program that includes urinalysis, breath or sweat patch testing, as directed by the Probation Officer. The defendant shall abstain from using alcohol and illicit drugs, and from abusing prescription medications during the period of supervision.

6. During the course of supervision, the Probation Officer, with the agreement of the defendant and defense counsel, may place the defendant in a residential drug treatment program approved by the U.S. Probation and Pretrial Services Office for treatment of narcotic addiction or drug dependency, which may include counseling and testing, to determine if the defendant has reverted to the use of drugs. The defendant shall reside in the treatment program until discharged by the Program Director and Probation Officer.

7. As directed by the Probation Officer, the defendant shall pay all or part of the costs of the Court-ordered treatment to the aftercare contractors during the period of community supervision. The defendant shall provide payment and proof of payment as directed by the Probation Officer. If the defendant has no ability to pay, no payment shall be required.
8. The defendant shall participate in a domestic violence treatment program as approved and directed by the Probation Officer.

9. The defendant shall submit the defendant's person, property, house, residence, vehicle, papers, or other areas under the defendant's control, to a search conducted by a United States Probation Officer or law enforcement officer. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition. Any search pursuant to this condition will be conducted at a reasonable time and in a reasonable manner upon reasonable suspicion that the defendant has violated a condition of his supervision and that the areas to be searched contain evidence of this violation.

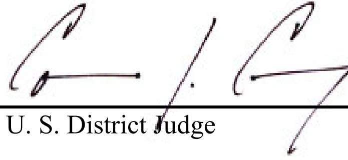
The Court authorizes the Probation & Pretrial Services Office to disclose the Presentence Report to the substance abuse treatment provider to facilitate the defendant's treatment for narcotic addiction or drug dependency. Further redisclosure of the Presentence Report by the treatment provider is prohibited without the consent of the sentencing judge.

The Court strongly recommends that the defendant be housed in a facility in Tennessee to facilitate visitation with family, friends, and loved ones.

The Court advises the defendant of his right to appeal.

USA vs. JOHNATHAN ALLEN GREEN Docket No.: SACR 21-00047-CJC

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.



April 29, 2024
Date

U. S. District Judge

It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Clerk, U.S. District Court

April 29, 2024
Filed Date

By Rolls Royce Paschal
Deputy Clerk

The defendant must comply with the standard conditions that have been adopted by this court (set forth below).

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant must not commit another federal, state, or local crime;
2. The defendant must report to the probation office in the federal judicial district of residence within 72 hours of imposition of a sentence of probation or release from imprisonment, unless otherwise directed by the probation officer;
3. The defendant must report to the probation office as instructed by the court or probation officer;
4. The defendant must not knowingly leave the judicial district without first receiving the permission of the court or probation officer;
5. The defendant must answer truthfully the inquiries of the probation officer, unless legitimately asserting his or her Fifth Amendment right against self-incrimination as to new criminal conduct;
6. The defendant must reside at a location approved by the probation officer and must notify the probation officer at least 10 days before any anticipated change or within 72 hours of an unanticipated change in residence or persons living in defendant's residence;
7. The defendant must permit the probation officer to contact him or her at any time at home or elsewhere and must permit confiscation of any contraband prohibited by law or the terms of supervision and observed in plain view by the probation officer;
8. The defendant must work at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons and must notify the probation officer at least ten days before any change in employment or within 72 hours of an unanticipated change;
9. The defendant must not knowingly associate with any persons engaged in criminal activity and must not knowingly associate with any person convicted of a felony unless granted permission to do so by the probation officer. This condition will not apply to intimate family members, unless the court has completed an individualized review and has determined that the restriction is necessary for protection of the community or rehabilitation;
10. The defendant must refrain from excessive use of alcohol and must not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
11. The defendant must notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
12. For felony cases, the defendant must not possess a firearm, ammunition, destructive device, or any other dangerous weapon;
13. The defendant must not act or enter into any agreement with a law enforcement agency to act as an informant or source without the permission of the court;
14. The defendant must follow the instructions of the probation officer to implement the orders of the court, afford adequate deterrence from criminal conduct, protect the public from further crimes of the defendant; and provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

☐ The defendant must also comply with the following special conditions (set forth below).

STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS

The defendant must pay interest on a fine or restitution of more than $2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15th) day after the date of the judgment under 18 U.S.C. § 3612(f)(1). Payments may be subject to penalties for default and delinquency under 18 U.S.C. § 3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed before April 24, 1996. Assessments, restitution, fines, penalties, and costs must be paid by certified check or money order made payable to "Clerk, U.S. District Court." Each certified check or money order must include the case name and number. Payments must be delivered to:

United States District Court, Central District of California
Attn: Fiscal Department
255 East Temple Street, Room 1178
Los Angeles, CA 90012

or such other address as the Court may in future direct.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant must pay the balance as directed by the United States Attorney's Office. 18 U.S.C. § 3613.

The defendant must notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence address until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. § 3612(b)(l)(F).

The defendant must notify the Court (through the Probation Office) and the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. § 3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution under 18 U.S.C. § 3664(k). See also 18 U.S.C. § 3572(d)(3) and for probation 18 U.S.C. § 3563(a)(7).

Payments will be applied in the following order:

1. Special assessments under 18 U.S.C. § 3013;
2. Restitution, in this sequence (under 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid):
   Non-federal victims (individual and corporate),
   Providers of compensation to non-federal victims,
   The United States as victim;
3. Fine;
4. Community restitution, under 18 U.S.C. § 3663(c); and
5. Other penalties and costs.

CONDITIONS OF PROBATION AND SUPERVISED RELEASE PERTAINING TO FINANCIAL SANCTIONS

As directed by the Probation Officer, the defendant must provide to theProbation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant must not apply for any loan or open any line of credit without prior approval of the Probation Officer.

When supervision begins, and at any time thereafter upon request of the Probation Officer, the defendant must produce to the Probation and Pretrial Services Office records of all bank or investments accounts to which the defendant has access, including any business or trust accounts. Thereafter, for the term of supervision, the defendant must notify and receive approval of the Probation Office in advance of opening a new account or modifying or closing an existing one, including adding or deleting signatories; changing the account number or name, address, or other identifying information affiliated with the account; or any other modification. If the Probation Office approves the new account, modification or closing, the defendant must give the Probation Officer all related account records within 10 days of opening, modifying or closing the account. The defendant must not direct or ask anyone else to open or maintain any account on the defendant's behalf.

The defendant must not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of $500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

USA vs. JOHNATHAN ALLEN GREEN Docket No.: SACR 21-00047-CJC

RETURN

I have executed the within Judgment and Commitment as follows:

Defendant delivered on ______________ to ______________

Defendant noted on appeal on ______________

Defendant released on ______________

Mandate issued on ______________

Defendant's appeal determined on ______________

Defendant delivered on ______________ to ______________

at ______________

the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

United States Marshal

By ______________

Date Deputy Marshal

CERTIFICATE

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

By ______________

Filed Date Deputy Clerk

FOR U.S. PROBATION OFFICE USE ONLY

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) ______________ ______________

Defendant Date

______________ ______________

U. S. Probation Officer/Designated Witness Date