

No. 25-7530

In the
Supreme Court of the United States

Lester Landrum,

Petitioner,

v.

United States of America,

Respondent.

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

REPLY BRIEF FOR PETITIONER

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TABLE OF CONTENTS

Table of Authorities	ii
Reply Brief for Petitioner	1
I. This Court should grant the petition to resolve whether and when 18 U.S.C. § 922(g)(1) comports with the Second Amendment.	1
A. Petitioner’s facial challenge warrants review.	1
B. Petitioner’s as-applied challenge warrants review.	2
II. This Court should grant the petition to address whether and when § 922(g)(1) comports with the Commerce Clause.....	4
Conclusion.....	5

TABLE OF AUTHORITIES

	page(s)
Cases	
<i>District of Columbia v. Heller</i> , 554 U.S. 570 (2008).....	1
<i>New York State Rifle & Pistol Ass’n, Inc. v. Bruen</i> , 597 U.S. 1 (2022).....	2, 3
<i>Taylor v. United States</i> , 579 U.S. 301 (2016).....	4
<i>United States v. Duarte</i> , 137 F.4th 743 (9th Cir. 2025)	1
<i>United States v. Hemani</i> , 608 U.S. 772 (2026).....	4
<i>United States v. Hunt</i> , 123 F.4th 697 (4th Cir. 2024)	1
<i>United States v. Jackson</i> , 110 F.4th 1120 (8th Cir. 2024)	1
<i>United States v. Rahimi</i> , 602 U.S. 680 (2024).....	1
<i>Vincent v. Bondi</i> , 127 F.4th 1263 (10th Cir. 2025)	1
<i>Wolford v. Lopez</i> , 609 U.S. 185 (2026).....	1
Statutes	
18 U.S.C. § 922(g)(1)	passim
18 U.S.C. § 925(c).....	2

REPLY BRIEF FOR PETITIONER

I. This Court should grant the petition to resolve whether and when 18 U.S.C. § 922(g)(1) comports with the Second Amendment.

A. Petitioner’s facial challenge warrants review.

The government’s argument illustrates the need for this Court’s review. The government relies on this Court’s dicta to support the facial constitutionality of § 922(g)(1). *See* Brief in Opposition (BIO) at 4 (citing *Wolford v. Lopez*, 609 U.S. 185, 193 (2026), *United States v. Rahimi*, 602 U.S. 680, 699 (2024), and *District of Columbia v. Heller*, 554 U.S. 570, 626, 627 n.26 (2008)). The courts of appeals have relied on this Court’s dicta too. *See United States v. Hunt*, 123 F.4th 697, 703 (4th Cir. 2024), *cert. denied*, 145 S. Ct. 2756, 222 L. Ed. 2d 1046 (2025) (relying on “statements in ... *Heller* ... that ‘nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons’ and that restrictions on felons possessing firearms were ‘presumptively lawful regulatory measures’”); *United States v. Jackson*, 110 F.4th 1120, 1125 (8th Cir. 2024), *cert. denied*, 145 S. Ct. 2708, 221 L. Ed. 2d 970 (2025) (relying on “assurances by the Supreme Court” that *Bruen* did not “cast doubt” on laws prohibiting felons from possessing firearms); *United States v. Duarte*, 137 F.4th 743, 750–52 (9th Cir. 2025) (en banc) (explaining that *Bruen* “did not change or alter” *Heller*’s “assurances” about § 922(g)(1)’s constitutionality); *Vincent v. Bondi*, 127 F.4th 1263, 1265 (10th Cir. 2025) (relying on this Court’s statements in *Heller* and *Rahimi* alluding to the

“presumptive lawfulness” of laws disarming felons). This Court’s review is needed to clarify the continued validity of its dicta on felon-in-possession bans.

B. Petitioner’s as-applied challenge warrants review.

The government admits that the courts of appeals disagree about how to evaluate as-applied challenges to § 922(g)(1). BIO at 5–7. It offers three reasons the circuit conflict does not warrant certiorari, BIO at 5–7, but those reasons fail to persuade.

First, the upcoming en banc hearings in the Third and Fifth Circuits weigh in favor of this Court’s review. *Contra* BIO at 7–8. The en banc hearings confirm what members of this Court have already observed: lower courts are struggling to apply *Bruen*.¹ See Petition at 6. The en banc hearings also signal the exceptional importance of the question presented. By granting en banc hearing, the courts of appeals have implicitly recognized the importance of providing Americans with guidance about the scope of the Second Amendment right. And by granting initial hearing en banc (as the Third Circuit has done²), the courts of appeals have implicitly signaled the importance of providing prompt guidance about the scope of the Second Amendment right.

Second, 18 U.S.C. § 925(c) is no substitute for judicial review of § 922(g)(1). *Contra* BIO at 8–10. The government has the burden to show that the constitution

¹ *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022).

² See *Williams v. Attorney General*, No. 24-1091 (3rd Cir. Jan. 17, 2024); *United States v. Bost*, No. 24-1719 (3rd Cir. July 13, 2026).

allows Congress to disarm Landrum and defendants like him. *See Bruen*, 597 U.S. at 24 (“The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation.”). If the government fails to meet that burden, disarmament under § 922(g)(1) is unconstitutional even if a defendant can seek restoration of his right.

Third, this case is an ideal vehicle to confront the circuit split. *Contra* BIO at 10–11. Evaluating the constitutionality of § 922(g)(1) as applied to Landrum would allow the Court to resolve several issues currently dividing the courts of appeals, including (1) whether § 922(g)(1) is vulnerable to as-applied challenges; (2) whether a court can consider evidence beyond an individual’s predicate convictions (such as his status as a probationer), and (3) which party bears the burden of proof in an as-applied challenge. This case would also allow this Court to analyze the constitutionality of § 922(g)(1) as applied to a defendant with prior convictions for the sale of drugs. Federal sentencing statistics show that drug offenses³ were the second-most-common offense of conviction (after immigration offenses) for sentenced individuals in fiscal year 2025.⁴

³ Drug offenses include trafficking and simple possession, but the number of trafficking offenses (16,222) far exceeds the number of simple possession offenses (107). *See* United States Sentencing Commission, 2025 Sourcebook of Federal Sentencing Statistics (“Sourcebook”), 20, available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/annual-reports-and-sourcebooks/2025/2025_Sourcebook.pdf (last accessed Sept. 22, 2026).

⁴ *See* Sourcebook at 19.

II. This Court should grant the petition to address whether and when § 922(g)(1) comports with the Commerce Clause.

The government’s response to the Commerce Clause challenge illustrates the need for this Court’s review. As the government points out (BIO at 12), the courts of appeals have relied on this Court’s precedent to continue to find § 922(g)(1) constitutional. That reliance “misapprehend[s]” this Court’s precedent “in two ways.” *United States v. Hemani*, 608 U.S. 772, 799 (2026) (Thomas, J., concurring). Some courts of appeals “have thought that *Scarborough*’s statutory holding required them to uphold § 922(g)’s constitutionality.” *Id.* Other courts of appeals “have concluded that the presence of a so-called ‘jurisdictional hook’ in § 922(g) renders the statute constitutional.” *Id.*⁵ This Court’s review is needed to correct both errors.

The government suggests that this case is a poor vehicle because Landrum’s firearm was found near drugs, money, and scales. BIO at 12–13. But the government cannot rely on these facts because it did not prove them beyond a reasonable doubt. *See Taylor v. United States*, 579 U.S. 301, 308 (2016) (“There is no question that the Government in a Hobbs Act prosecution must prove beyond a reasonable doubt that the defendant engaged in conduct that satisfies the Act’s commerce element.”). Instead, even after Landrum put the government on notice of his Commerce Clause challenge, the government’s proof on the commerce element was that Landrum possessed a firearm in Mississippi that was manufactured outside of Mississippi. *See*

⁵ The Fifth Circuit recently issued an order granting en banc hearing on the issue of whether § 922(g)(1) exceeds Congress’s authority under the Commerce Clause. *See Order, United States v. Squire*, No. 25-30324 (5th Cir. July 20, 2026).

ROA.182; *see also* ROA.180 (district court explaining to Landrum that to obtain a conviction under § 922(g)(1), the government needed to prove “that the firearm you possessed was in or affecting commerce. In other words before you possessed it, it had traveled at some point in time between one state and another or the United States and some other country.”). Granting the petition would allow this Court to resolve whether that fact is enough to support a constitutional conviction under § 922(g)(1).

CONCLUSION

Petitioner Lester Landrum respectfully requests that this Court grant the petition for a writ of certiorari. Alternatively, the Court should grant review in one or more cases presenting similar questions and hold petitioner’s case pending disposition of that case.

Respectfully submitted this 24th day of September, 2026.

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