

No.

IN THE
Supreme Court of the United States

JOHN BALENTINE,
Petitioner,
v.

UNITED STATES OF AMERICA,
Respondent.

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Eighth Circuit

PETITION FOR WRIT OF CERTIORARI

J. Blake Hendrix
Counsel of Record
Ark. Bar No. 86066
Fuqua Campbell, P.A.
3700 Cantrell Rd., Suite 205
Little Rock, AR 72202
(501) 975-7123
bhendrix@fc-lawyers.com

QUESTION PRESENTED FOR REVIEW

1. Whether the felon in possession statute, 18 U.S.C. § 922(g)(1), violates the Second Amendment.

LIST OF PARTIES TO THE PROCEEDING

Petitioner is John Balentine, the defendant before the district court and the appellant before the court of appeals.

Respondent is the United States, the plaintiff before the district court and the appellee before the court of appeals.

RELATED PROCEEDINGS

This case arises from these proceedings:

- *United States v. Balentine*, No.3:21CR00043 LPR, Eastern District of Arkansas
- *United States v. Balentine*, 2026 U.S. App. LEXIS 6947 (8th Cir. 2026), United States Court of Appeals for the Eighth Circuit No. 24-3433

TABLE OF CONTENTS

Page No.

QUESTIONS PRESENTED FOR REVIEW.....	i
LIST OF PARTIES TO THE PROCEEDING	ii
RELATED PROCEEDINGS.....	iii
TABLE OF CONTENTS.....	iv
INDEX TO APPENDICES	v
TABLE OF CITED AUTHORITIES	vi
OPINIONS BELOW	1
STATEMENT OF JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE PETITION	6
CONCLUSION.....	9
CERTIFICATE OF SERVICE.....	10

INDEX TO APPENDICES

- APPENDIX A:** Opinion of the Eighth Circuit Court of Appeals
- APPENDIX B:** Order Denying Motion to Dismiss Indictment
- APPENDIX C:** Judgment in a Criminal Case

TABLE OF CITED AUTHORITIES

CASES

<i>District Court of Columbia v. Heller</i> , 554 U.S. 570 (2008)	8
<i>McDonald v. Chicago</i> , 561 U.S. 742 (2010)	8
<i>N.Y. Rifle & Pistol Ass’n v. Bruen</i> , 597 U.S. 1 (2022)	4, 6
<i>Range v. AG United States</i> , 69 F. 4th 96 (3d Cir. 2023)	4, 6
<i>United States v. Duarte</i> , 137 F.4th 743, 727 (9th Cir. 2025)	7
<i>United States v. Jackson</i> , 110 F.4th 1120 (8th Cir. 2024)	5, 6
<i>United States v. Mitchell</i> , 160 F.4th 169, 178 (5th Cir. 2025)	7

FEDERAL STATUTES

18 U.S.C. § 922(g)(1).....	i, 3, 4, 5, 6, 7, 9
18 U.S.C. § 924(e)	4

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eighth Circuit is reported at 2026 U.S. App. LEXIS 6947 (8th Cir. 2026) (Case No. 24-3433). (App. A).

The order denying the motion to dismiss the indictment is unpublished and was entered as a text order. (App. B).

STATEMENT OF JURISDICTION

The Judgment in a Criminal Case was entered by the District Court for the Eastern District of Arkansas on November 19, 2024. (App. C). The Eighth Circuit Court of Appeals filed its opinion and judgment on March 10, 2026. (App. A). This Court's jurisdiction rests on 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

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.”

Title 18, United States Code, Section 922(g)(1) provides, “It shall be unlawful for any person ... who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year ... to ship or transport in interstate or foreign commerce, or possess in or effecting commerce, any firearm or ammunition or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.”

STATEMENT OF THE CASE

A Superseding Indictment charged Balentine with possessing a firearm on February 18, 2020, after having been convicted of nine state-court felony offenses between 2010 and 2012. The prior felony convictions included residential burglary, criminal mischief, theft of property, terroristic act, and robbery. The Superseding Indictment further alleged that Balentine was subject to the enhanced penalties of 18 U.S.C. § 924(e), the Armed Career Criminal Act.

Balentine moved to dismiss the indictment, alleging that the felon-in-possession statute, 18 U.S.C. § 922(g)(1), violates the Second Amendment facially and as applied to him. Balentine argued that when he was arrested for possessing the firearm, he stated, in response to an officer's question, that he (Balentine) had the firearm "for protection," that "people were out there threatening him." Possessing the firearm for ordinary self-protection, Balentine contended, was protected by the Second Amendment, citing *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022). He further argued that under *Range v. AG United States*, 69 F. 4th 96 (3d Cir. 2023), a categorical ban on all felons from possessing firearms violated the Second Amendment. The district court denied the motion to dismiss, finding that Balentine's arguments were foreclosed by Eighth Circuit precedent. (App. B). The Court of Appeals affirmed. (App. A).

Balentine pleaded guilty to the Superseding Indictment. The district court found that four of Balentine's prior convictions were violent felonies (all residential burglaries) committed on different occasions. The district court sentenced Balentine

to 188 months' imprisonment, five years of supervised release, and a \$100 special assessment. (App. C).

Balentine appealed. The Eighth Circuit Court of Appeals affirmed, agreeing with the district court that Balentine's Second Amendment argument was foreclosed by, among other precedent, *United States v. Jackson*, 110 F. 4th 1120 (8th Cir. 2024), holding that § 922(g)(1) categorically applies to all felons and does not violate the Second Amendment.

REASONS FOR GRANTING THE PETITION

N.Y. Rifle & Pistol Ass’n v. Bruen, 597 U.S. 1 (2022), created considerable division among the circuit courts of appeals. The split is a disagreement whether permanently disarming all felons violates the Second Amendment or whether only permanently disarming certain types of felons violates the amendment.

The Eighth Circuit Court of Appeals has rejected the notion that the type of prior conviction is relevant to the analysis. The defendant in *United States v. Jackson* had sustained two prior convictions for selling controlled substances. 110 F.4th 1120 (8th Cir. 2024). After being indicted for possessing a firearm as a felon, Jackson moved to dismiss the indictment, claiming that his two prior convictions were non-violent and, therefore, did not remove him from “the people” protected by the Second Amendment, that is, that the prior convictions did not show that he was more dangerous than the typical law-abiding citizen. *Id.* at 1125. Jackson’s arguments before the district court and the Eighth Circuit failed. The Eighth Circuit concluded that § 922(g)(1) was not unconstitutional based on any particular type of felony conviction, finding no need for “felony-by-felony” litigation. *Id.* at 1125. A firearm regulation that disarms all felons, therefore, does not offend the Second Amendment. *Id.*

The Third Circuit came to the opposite conclusion in *Range v. AG United States*, 69 F. 4th 96 (3d Cir. 2023). Range had been convicted of making a false statement to obtain food stamps, a crime punishable by a term of imprisonment exceeding one year. The Court held that the Nation’s historical tradition of firearms

regulation supported a conclusion that permanently disarming Range violated the Second Amendment. *Id* at 106.

As of November 21, 2025, the Fourth, Eighth, Ninth, Tenth, and Eleventh Circuits have upheld the categorical application of § 922(g)(1) to all felons, no matter the particular type of prior felony conviction. *See United States v. Mitchell*, 160 F.4th 169, 178 (5th Cir. 2025) (collecting cases). *See also United States v. Duarte*, 137 F.4th 743, 727 (9th Cir. 2025) (collecting cases as of May 9, 2025). The First, Second, Third, Fifth, Sixth, and Seventh Circuits have concluded that § 922(g)(1) might violate the Second Amendment as applied to *some* felons. *See United States v. Mitchell*, 160 F.4th at 178-79 (collecting cases).

The writ should be granted to resolve this circuit split. If the Court determines that not *all* felony convictions warrant permanent dispossession, the Court should set criteria for lower courts to determine whether a particular offense warrants permanent dispossession. Examples of such criteria could include the type of prior crime, how long ago it was committed, and why the current firearm was possessed

Some felony offenses are more serious than others. Murder, rape, and kidnapping, for example, are at one end of the spectrum; simple theft of property at the other. On balance, a simple thief should not be discounted as one of “the people” afforded Second Amendment protection. How long ago the prior crime was committed is a useful metric. It would account for persons who some time ago committed an offense but reentered society and became an ordinary, law-abiding citizen. Why a defendant possessed the firearm is also useful. Was it possessed in relation to another

offense or was it possessed for self-defense? Possession for self-defense weighs against the need to permanently disarm a person. *See District Court of Columbia v. Heller*, 554 U.S. 570 (2008); *McDonald v. Chicago*, 561 U.S. 742 (2010) (holding that the Second Amendment protects ordinary, law-abiding citizens' possession of a firearm for self-defense).

Applying these factors to Balentine warrants a conclusion that he should not be permanently disarmed. While Balentine's prior conviction are serious, they are not crimes like murder, rape, or kidnapping. The crimes were committed over a relatively short period of time: 2009 through 2011. After serving the sentences, Balentine reentered society and remained law-abiding until his arrest for possessing a firearm on February 18, 2020, resulting in the instant conviction. And Balentine did not possess the firearm in connection with another offense. As he told the arresting officer, he possessed the firearm for self-defense.

CONCLUSION

For the reasons set out above, the petition for writ of certiorari should be granted, and upon plenary consideration and oral argument, the Court should find 18 U.S.C. § 922(g)(1) violates the Second Amendment facially and as applied to Balentine and reverse the judgment of the Eighth Circuit Court of Appeals.

Respectfully submitted,



J. Blake Hendrix

Counsel of Record

Ark. Bar No. 86066

Fuqua Campbell, P.A.

3700 Cantrell Rd., Suite 205

Little Rock, AR 72202

(501) 975-7123

bhendrix@fc-lawyers.com

CERTIFICATE OF SERVICE

I, J. Blake Hendrix, hereby certify that on June 1, 2026, I served an electronic version of the petition for a writ of certiorari in the above-captioned matter upon the following, and that pursuant to Rule 29.2, three copies of a paper version will be sent to the same individuals via United States mail, postage prepaid on June 2, 2026.

The names and addresses of those served are as follows:

Solicitor General of the United States
Room 5614, Department of Justice
950 Pennsylvania Ave., N.W.
Washington, DC 20530-0001
(202) 514-2203
Counsel for the United States

Office of the United States Attorney for the Eastern District of Arkansas
P.O. Box 1229
Little Rock, AR 72203
(501) 340-2600
Counsel for the United States



J. Blake Hendrix