No. _____

IN THE SUPREME COURT OF THE UNITED STATES

ORLANDO ROJO,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

KATIE HURRELBRINK
Federal Defenders of San Diego, Inc.
225 Broadway, Suite 900
San Diego, California 92101
Telephone: (619) 234-8467

Attorneys for Petitioner

QUESTION PRESENTED FOR REVIEW

Whether 18 U.S.C. § 922(g)(1)'s categorical ban on the possession of firearms by felons is unconstitutional as applied to a defendant with non-violent predicate offenses underlying his conviction.

PARTIES, RELATED PROCEEDINGS, AND RULE 29.6 STATEMENT

The parties to the proceeding below were Petitioner Orlando Rojo and the United States. There are no nongovernmental corporate parties requiring a disclosure statement under Supreme Court Rule 29.6.

All proceedings directly related to the case, per Rule 14.1(b)(iii), are as follows:

- *United States v. Rojo*, No. 21-CR-682-GPC, U.S. District Court for the Southern District of California, Judgment issued April 4, 2023.
- *United States v. Rojo*, No. 23-598, U.S. Court of Appeals for the Ninth Circuit, Memorandum disposition issued May 13, 2026.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Federal Statutes

IN THE SUPREME COURT OF THE UNITED STATES

ORLANDO ROJO,
Petitioner,

- v. -

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

INTRODUCTION

In 2023, petitioner Orlando Rojo was convicted under 18 U.S.C. § 922(g)(1) of possessing a firearm after sustaining a single, ten-year-old conviction for possessing marijuana with intent to distribute. He challenged his § 922(g)(1) conviction under the Second Amendment, arguing that no historical tradition supports permanently disarming him. The Ninth Circuit upheld his conviction under *United States v. Duarte*, 137 F.4th 743 (9th Cir. 2025) (en banc), which holds that all felons, regardless of conduct or circumstances, may be permanently disarmed if the legislature so chooses. In *Duarte*, the court did not identify a Founding-era analogue for that rights-denying view. Instead, it concluded that *District of Columbia v. Heller*, 554 U.S. 570 (2008), already decided that laws like § 922(g)(1) are valid as to all felons. As a fallback, the court upheld § 922(g)(1) as applied to the defendant under a kind of rational-basis review cloaked in history—(mis)understanding this Nation's historical tradition of firearms regulation to give legislators carte blanche to categorically ban from possessing arms any group they deem "dangerous."

All of that is wrong. "The constitutionality of felon dispossession was not before the Court in *Heller*," so the case cannot be said to have decided the issue. *Kanter v. Barr*, 919 F.3d 437, 453 (7th Cir. 2019) (Barrett, J., dissenting). And *New York State Rifle & Pistol Association v. Bruen* made crystal clear that "judicial deference to legislative interest balancing" is fundamentally inconsistent with the very notion that the Second Amendment protects a fundamental right. 597 U.S. 1, 26 (2022). Under this Court's precedents, the decision below cannot pass muster. Even the Ninth Circuit agreed that the defendant is part of "the people" and that the conduct § 922(g)(1) prevents him from engaging in (keeping and bearing a firearm for self-defense) is covered by the Second Amendment's plain text. At that point, the government should have had to identify a historical tradition of disarming people like the defendant, whose prior convictions were all for non-violent crimes and whom the government had never claimed was violent towards others. Instead, the Ninth Circuit leaned on disanalogous felony punishments that were abandoned even before the Founding and abhorrent colonial-era laws that disarmed disfavored groups like slaves, Catholics, and Native Americans.

The Ninth Circuit's decision affirming § 922(g)(1)'s application to all felons, regardless of their underlying offenses, joins the long side of an acknowledged circuit split. Six other circuits have embraced a similar approach, demanding judicial deference to legislative interest-balancing and elevating this Court's dicta in *Heller* over its holding and reasoning in *Bruen* and *Rahimi*. On the flip side, three circuits have taken the opposite (i.e., correct) approach, requiring the government to justify its applications of § 922(g)(1) by reference to longstanding historical tradition that justifies disarming citizens based on their particular predicate convictions. That division underscores the need for this Court's intervention. Indeed, lower courts themselves have recognized that "there is significant disagreement about" how to analyze § 922(g) challenges "that the Supreme Court should resolve." *United States v. Morton*, 123 F.4th 492, 498 n.2 (6th Cir. 2024).

The Court should grant certiorari and hold that § 922(g)(1) is unconstitutional as applied to non-violent felons like Mr. Rojo. At the very least, the Court should grant, vacate, and remand with instructions for the Ninth Circuit to conduct a proper Second Amendment analysis by asking whether historical tradition supports disarming Mr. Rojo based on the felony offenses underlying his § 922(g)(1) charge.

OPINIONS BELOW

The decision below, *United States v. Rojo*, No. 23-598, is reproduced at Pet. App. 1–2.

JURISDICTION

The Ninth Circuit issued the decision below on May 13, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

C. Legal Background

In its seminal decision in *Heller*, this Court held that there is "no doubt … that the Second Amendment confer[s] an individual right to keep and bear arms." 554 U.S. at 595. While the Court acknowledged that the right is not "unlimited," it looked to historical restrictions on firearm possession to inform its analysis of the constitutionality of the law at hand. *Id.* at 626–27, 631–34. But the Court left a full-fledged exposition of that historical analysis for another day.

Over the next decade, lower courts "coalesced around a 'two-step' framework for analyzing Second Amendment challenges that combines history with means-end scrutiny." *Bruen*, 597 U.S. at 17. But this Court ultimately rejected that approach in *Bruen*, explaining that a "judge-empowering 'interest-balancing inquiry'" would not sufficiently safeguard individuals' constitutional rights. *Id.* at 22. After all, "[a] constitutional guarantee subject to future judges' assessments of its usefulness is no constitutional guarantee at all." *Id.* at 23 (quoting *Heller*, 554 U.S. at 634). So the Court laid out a more robust constitutional framework steeped in "the Nation's historical tradition of firearm regulation." *Id.* at 24. Under that approach, if regulated conduct is covered by the text of the Second Amendment, then it is presumptively protected, and the burden shifts to the government to justify its regulation with historical firearm restrictions that are analogous to the challenged law in their "how and why"—i.e., the "modern and historical regulations" must "impose a comparable burden on the right of armed self-defense" that "is comparably justified." *Id.* at 29.

This Court provided additional guidance on how to implement *Bruen*'s methodology in *United States v. Rahimi*, 602 U.S. 680 (2024). *Rahimi* reiterated that "the appropriate analysis involves considering whether the challenged regulation is consistent with the principles that underpin our regulatory tradition" as evidenced by the government's proffered historical analogues. *Id.* at 692. This Court clarified that those analogues "need not be a 'dead ringer' or a 'historical twin.'" *Id.* But it repeated *Bruen*'s directive that "[w]hy and how the [challenged] regulation burdens the right are central" to the Second Amendment inquiry. *Id.* In other words, the focus remains on whether the challenged law "impos[es] similar restrictions for similar reasons." *Id.* Applying that framework, this Court held that § 922(g)(8)(C)(i) is constitutionally sound, as it is grounded in a historical tradition of temporarily disarming individuals who have been found to pose "a credible threat to the physical safety of another." *Id.* at 702.

In short, as exemplified in *Rahimi*, *Bruen* tasks courts with conducting a categorical comparison of the mechanics of the challenged provision and the government's historical analogues to assess whether the challenged law passes constitutional muster.

D. Factual Background

In 2023, a grand jury indicted petitioner Orlando Rojo on one count of violating 18 U.S.C. § 922(g)(1) for knowingly possessing a firearm despite having previously been convicted of crimes punishable by more than a year in prison. The indictment was predicated on Mr. Rojo's ten-year-old non-violent conviction for possession with intent to distribute marijuana. Mr. Rojo filed a motion to dismiss the indictment challenging his prosecution under the Second Amendment and this Court's decision in *Bruen*. The district court denied the motion. Mr. Rojo then entered into a conditional plea agreement that permitted him to appeal the denial of that motion on appeal.

At Mr. Rojo's subsequent sentencing, the court remarked that this case was not "the traditional kind of felon-in-possession offense, where we have people who may have been associated with gangs or involved with violence." "[T]he concern there, obviously, is that a firearm is going to be directed at someone in the community," the court said. But in Mr. Rojo's case, the prior was "somewhat dated." "[I]t involved marijuana." And "it produced a six-month sentence." Given the mitigated nature of the offense, the Court imposed a below-guidelines sentence of 30 months.

Mr. Rojo appealed, challenging § 922(g)(1) on its face and as-applied under the Second Amendment. While his appeal was pending, the Ninth Circuit issued its decision in *United States v. Duarte*, 137 F.4th 743 (9th Cir. 2025) (en banc). In *Duarte*, a divided Ninth Circuit panel initially accepted the defendant's as-applied challenge and reversed his conviction. *United States v. Duarte*, 101 F.4th 657 (9th Cir. 2024), *rev'd on reh'g en banc*, 137 F.4th 743 (9th Cir. 2025), *cert. denied*, 223 L. Ed. 2d 556 (Jan. 20, 2026). The majority held that the defendant was part of "the people" the Second Amendment protects, that his desire to possess a firearm for self-defense was presumptively protected conduct, and—after an in-depth review of the historical record—that there was no deeply rooted tradition of forever stripping non-violent individuals of their right to keep and bear arms after they have served time for their felonies and re-entered society. *Id.*

A majority of active judges on the Ninth Circuit voted to rehear the case en banc and vacated the panel's decision. *United States v. Duarte*, 137 F.4th 743, 749 (9th Cir. 2025), *cert. denied*, 223 L. Ed. 2d 556 (Jan. 20, 2026) An en banc panel then reversed course and held that *Bruen* did not change the Ninth Circuit's decade-earlier conclusion that § 922(g)(1) is constitutional as to all felons, including non-violent ones. *Id.* at 750.

Although the en banc majority mouthed *Bruen*'s words, it ultimately defaulted to pre-*Bruen* business as usual. At the outset, the majority acknowledged that *Bruen* rejected "the analytical framework that the federal courts had developed since *Heller*"—which the Ninth Circuit had applied in *Vongxay*—and reiterated that, under *Bruen* and *Rahimi*, "[w]hen the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct," and "[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 747 (quoting *Bruen*, 597 U.S. at 24). But it immediately left *Bruen* behind. Instead of looking to the Second Amendment's text or this Nation's historical tradition of firearm regulation, the majority started its analysis with dictum from *Heller*.

Heller caveated that "nothing in [its] opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons." *Id.* at 750 (quoting *Heller*, 554 U.S. at 626-27). Relying on that single sentence, the Ninth Circuit reaffirmed its pre-*Bruen* precedent that "felons are categorically different from the individuals who have a fundamental right to bear arms," and that "922(g)(1) constitutionally prohibits the possession of firearms by felons," even as to non-violent offenders. *Id.* (quoting *United States v. Vongxay*, 594 F.3d 1111, 1114 (9th Cir. 2010)). Never mind that *Heller* did "not undertake an exhaustive historical analysis" of the issue and described such laws as only "*presumptively* lawful," *see Heller*, 554 U.S. at 626-27 & n.26 (emphasis added), or that "*Bruen* … worked a sea change in the analytical framework" for Second Amendment challenges, *id.* at 746. All that mattered to the majority was that *Heller* said (and *Rahimi* "repeated") that felon-in-possession laws are "presumptively constitutional." *Id.* at 752. *Heller*'s dicta was thus all the "historical tradition" the court deemed necessary to "support[] the categorical application of § 922(g)(1) to felons like Duarte." *Id.*

From there, the majority proceeded to opine that an "application of *Bruen*'s constitutional test" (or at least the Ninth Circuit's version of it) "to Duarte's conduct confirm[ed]" its holding. *Id.* At the threshold, the Ninth Circuit correctly—but in apparent contradiction to its earlier reassertion that "felons are categorically different from the individuals who have a fundamental right to bear arms," *id.* at 750—reasoned that the defendant "is part of 'the people' and the 'Constitution presumptively protects' his right to possess a firearm," *id.* at 753. As to historical tradition, however, the court largely declined to address whether depriving defendants of the fundamental constitutional right to keep and bear arms based on prior non-violent felony convictions imposed "a comparable burden" on the right to the government's proffered historical analogues that was also "comparably justified." *See Bruen*, 597 U.S. at 29.

Instead, the majority deployed the very "legislative interest balancing" *Bruen* eschewed—by recasting that interest-balancing as a historical tradition. *See id.* at 26. The majority identified two supposedly deeply rooted "regulatory principles" that guided its decision. *Id.* at 755. First, "legislatures may disarm" anyone they believe to have "committed the most serious crimes." *Id.* Second, "legislatures may categorically disarm" any class of persons "they deem dangerous," even "without an individualized determination of dangerousness." *Id.*

On the first principle, the court reasoned that because some historical felonies were punished with "death and estate forfeiture," any action that a modern legislature might define as a felony can be used as grounds to justify the deprivation of Second Amendment rights. *Id.* at 756. The court highlighted "[t]he 1689 English Bill of Rights" that repulsed our Founders, a draft proposal penned by Pennsylvania anti-federalists that never made it out of convention, and a draft of Louisiana criminal codes from 1820 that "were ultimately not adopted." *Id.* at 757. Because those laws (or proposed laws) were devised to "bar possession of a firearm from persons whose prior behaviors ha[d] established their violent tendencies," the court concluded—without explanation—that they matched the "how" and "why" of § 922(g)(1)'s bar on firearm possession as applied to individuals *without* a history of violent crime too. *Id.* 757–58.

With respect to the second principle, the court purported to divine a longstanding tradition of "disarm[ing] those whom the legislature deem[s] dangerous on a categorical basis," no matter the legislature's justification. *Id.* at 759. The laws the court invoked in support of that purported tradition included bans against "Catholics," "Native Americans," "slaves," "free Black people," "those who refused to swear oaths of loyalty to the emerging nation," and, finally, "tramps." *Id.* at 759–61. While the court conceded that most of those laws "reflect overgeneralized and abhorrent prejudices that would not survive legal challenges today," it saw no problem relying on them to justify § 922(g)(1)'s overgeneralized prejudices against felons today. *Id.* at 750–61.

Judge Nelson, joined by Judge Ikuta, concurred only in the judgment. They agreed that the defendant's conviction should be affirmed—but only because, in their view, the appropriate standard of review was plain error, not de novo, since the defendant had not raised his constitutional claim in the district court. *Id.* at 762 (Nelson, J., concurring in the judgment).

Judge Collins also concurred only in the judgment. *Id.* at 762 (Collins, J., concurring in the judgment). He lamented that the majority's decision turned *Bruen* into "rational basis review" under which "Second Amendment rights effectively exist only at the sufferance of the legislature." *Id.* at 766–67. Nevertheless, he concluded that if the historical traditions to which the majority pointed were "taken together" and considered in tandem, then they would provide sufficient historical basis to support § 922(g). *Id.* at 772–72.

Finally, Judge VanDyke filed a separate opinion, concurring in part and dissenting in part. *Id.* at 773 (concurring in the judgment in part and dissenting in part). He first reasoned that the en banc court should have applied plain-error review, given the defendant's failure to raise his Second Amendment claim in the district court. *Id.* at 774–79. On the merits, he rejected the majority's broad endorsement of § 922(g)(1), criticizing its reliance on flawed historical analogues "using 'cherrypicked language' that is 'mis- and over-applied from the Court's prior precedents' to uphold any firearms regulation that comes before it," which, he argued, grants legislatures excessive discretion to disarm individuals without requiring a showing of dangerousness. *Id.* at 782. Like Judge Collins, he lambasted the majority for skipping past even "the old interest-balancing regime" of intermediate scrutiny and applying a "*rational basis*" regime under which courts must defer to legislatures' decisions to disarm disfavored groups. *Id.* at 799. But he disagreed with Judge Collins that § 922(g)(1) could be justified by combining disparate historical traditions in a manner that lacks any limits. *Id.* at 801–05.

Following *Duarte*, the Ninth Circuit issued a memorandum disposition affirming Mr. Rojo's conviction. Pet. App. at 1. Citing *Duarte*, the court held that Mr. Rojo's Second Amendment "claim is foreclosed." Pet. App. at 2.

REASONS FOR GRANTING THE PETITION

The decision below entrenches an acknowledged circuit split. Nearly every circuit has squarely confronted as-applied challenges to § 922(g)(1), yet the circuits have splintered on the question of how to analyze them. Seven circuits have adopted a categorical rule barring as-applied challenges to § 922(g)(1), effectively giving legislatures unreviewable discretion to disqualify entire categories of people from possessing firearms. Three circuits have rejected that rights-denying approach, demanding—in accordance with this Court's precedent—that the government justify even categorical bans as applied to non-violent felons. And even among those two camps, there are internal divisions. That widespread disarray warrants this Court's attention. Indeed, multiple court-of-appeals judges have implored this Court for further guidance on this issue. And this is a good vehicle to answer the methodological question in addition to the merits, as the Ninth Circuit clearly erred on both fronts while sitting en banc. The Court should grant certiorari and resolve this entrenched circuit split once and for all.

IV. The Decision Below Deepens a Circuit Split.

Seven circuits—the First, Second, Fourth, Eighth, Tenth, and Eleventh Circuits, plus now the Ninth Circuit—have held post-*Bruen* "that § 922(g)(1) is constitutional as applied to *all* felons." *United States v. Mancilla*, 155 F.4th 449, 454 n.5 (5th Cir. 2025) (Elrod, J., concurring). These seven circuits eschew as-applied challenges entirely, deeming 18 U.S.C. § 922(g)(1) constitutional in *all* applications, even as to non-violent offenders. *Zherka v. Bondi*, 140 F.4th 68 (2d Cir. 2025), is illustrative. Despite reviewing "the historical tradition of disarmament laws" and finding nothing like "modern felon-in-possession laws" in "the pre-Founding and Founding periods," *id.* at 78–79, the Second Circuit reasoned that historical "[c]lass-wide … legislative disarmament" laws against Catholics, Native Americans, Blacks, and the homeless immunize § 922(g)(1) from any constitutional attack. *Id.* at 86–91. The Second Circuit thus held, as the Ninth Circuit did here, that the judiciary must defer to a legislature's views of which groups are too "dangerous" to keep and bear arms. *Id.* at 90.

The Fourth Circuit reached the same conclusion in *United States v. Hunt*, 123 F.4th 697 (4th Cir. 2024). After it too reviewed a few historical examples of disarmament, the court purported to derive from them a tradition of "disarm[ing] categories of people based on a legislative determination that such people 'deviated from legal norms.'" *Id.* at 707. Applying this principle, the court saw no constitutional problem with *any* application of § 922(g)(1), deeming it a permissible exercise of the legislature's supposedly broad discretion to disarm categories of persons of its choosing. *Id.*

The Eighth Circuit has likewise adopted a categorical rule barring as-applied challenges to § 922(g)(1), concluding that "legislatures traditionally possessed discretion to disqualify categories of people from possessing firearms to address a danger of misuse by those who deviated from legal norms." *United States v. Jackson*, 110 F.4th 1120, 1127 (8th Cir. 2024). Much like the decision below, the Eighth Circuit "ma[de] no attempt to explain how the burden imposed by the felon-in-possession statute, which lasts for a lifetime, is comparable to any of the Founding-era laws it discusses." *United States v. Jackson*, 121 F.4th 656, 660 (8th Cir. 2024) (Stras, J., dissenting from the denial of rehearing en banc).

The Tenth and Eleventh Circuits have similarly foreclosed as-applied challenges to § 922(g)(1), but they have taken a slightly different approach, rejecting *any* consideration of the historical record. *See Mancilla*, 155 F.4th at 454 n.5 (Elrod, J., concurring). While the Ninth Circuit sung from a similar hymnal, describing historical tradition as merely "confirm[ing]" its holding, *Duarte*, 137 F.4th at 752, the Tenth and Eleventh Circuits have gone even further in absolving the government of its historical-tradition burden. In *Vincent v. Bondi*, 127 F.4th 1263 (10th Cir. 2025), for example, the Tenth Circuit relied exclusively on pre-*Rahimi* precedent that (like the first half of the decision below) rested entirely on *Heller*'s dicta about felon-in-possession laws being "presumptively lawful." *See id.* at 1265. The Eleventh Circuit has taken the same tack, holding that neither *Bruen* nor *Rahimi* displaced prior circuit precedent upholding § 922(g)(1) based solely on *Heller*'s "presumptively lawful" dicta. *See, e.g.*, *United States v. Dubois*, 139 F.4th 887, 893 (11th Cir. 2025). Much like in the Ninth Circuit, then, felons in the Tenth and the Eleventh Circuits are "exclud[ed]" from keeping or bearing arms as a "categori[cal]" matter based on the (il)logic that *Heller* "limit[ed]" the Second Amendment "right to 'law-abiding and qualified individuals.'" *Id.*; *Vincent*, 127 F.4th at 1264-65; *accord Duarte*, 137 F.4th at 750 (reaffirming pre-*Bruen* caselaw holding that "felons are categorically different from the individuals who have a fundamental right to bear arms" (quoting *Vongxay*, 594 F.3d at 1115)).

The First Circuit, for its part, has largely followed suit. In *United States v. Langston*, 110 F.4th 408 (1st Cir. 2024), it held that the government need not provide any "historical evidence" to justify § 922(g)(1) because *Heller* said "that felon-in-possession laws are presumptively lawful." *Id.* at 419–20. While that decision was made on "plain-error review," it portends the First Circuit's likely approach in future cases. *Id.*

On the other side of the ledger are the Third, Fifth, and Seventh Circuits, which have (correctly) held that *Bruen* abrogated their past § 922(g)(1) precedent, such that courts now must evaluate as-applied challenges to § 922(g)(1) by reference to the Second Amendment's text at the threshold and then to whether historical tradition supports disarming an individual for her predicate felony conviction(s).

In *Range v. Attorney General*, the en banc Third Circuit held that the government could not strip a criminal defendant of his Second Amendment rights based on his underlying, non-violent felony conviction for food-stamp fraud. 124 F.4th 218, 224 (3d Cir. 2024). The court started off by recognizing that *Bruen* abrogated its prior precedent dictating "who" may keep and bear arms and that, in light of *Bruen*, the "focus" in answering that question in the § 922(g)(1) context—like all others—must be on text and historical tradition. *Id.* at 225. *Range* thus rejected any approach that "devolves authority to legislatures to decide whom to exclude from 'the people'" because "such 'extreme deference gives legislatures unreviewable power to manipulate the Second Amendment by choosing a label.'" *Id.* at 228.

That guiding principle informed the court's historical-tradition analysis, where it rejected the government's reliance on *Heller*'s dicta regarding "presumptively lawful" felon-in-possession laws. *Id.* at 228–30. Rather than "defer blindly to"

Congress' interest-balancing in § 922(g)(1), the Third Circuit required the government to justify the sweeping scope of the law as analogous to Founding-era and later traditions. *Id.* at 230–31. But the government's analogies to (clearly unconstitutional) categorical disarmament laws based on class, race, and religion were "far too broad," in the Third Circuit's view, and in any event were not comparably justified with respect to § 922(g)(1)'s application to Range—who, like Mr. Rojo here, lacked any demonstrated propensity for violence, much less violence with a firearm. *Id.* at 229–30. "For similar reasons," the Third Circuit found that neither "Founding-era laws that forfeited felons' weapons or estates" nor those that prescribed death as punishment for serious crimes constitute "analogues" to § 922(g)(1). *Id.* at 231–32. The Third Circuit thus rejected essentially every premise and conclusion that the First, Second, Fourth, Eighth, Ninth, Tenth, and Eleventh Circuits reached before and after it.

The Fifth Circuit walked a similar path to the Third in *United States v. Diaz*, 116 F.4th 458 (5th Cir. 2024). *Diaz* involved an as-applied challenge raised by a defendant who previously was convicted of various non-violent felonies, including grand theft auto. *Id.* at 467. Rather than defer to pre-*Bruen* circuit precedent that foreclosed Second Amendment challenges to § 922(g)(1) based on a combination of interest-balancing and *Heller*'s "presumptively lawful" dicta, the Fifth Circuit held that the relevant question is whether there is "a longstanding tradition of disarming someone with a [felony] history analogous to [the defendant's]." *Id.*; *accord, e.g.*, *Mancilla*, 155 F.4th 449 (per curiam); *United States v. Bullock*, 123 F.4th 183, 185

(5th Cir. 2024). In the Third and Fifth Circuit, then, *Heller*'s "dicta cannot supplant the most recent analysis set forth by [this] Court in *Rahimi* [and] *Bruen*." *Diaz*, 116 F.4th at 466. And that analysis does not justify applying § 922(g) to anyone and everyone who was ever convicted of any kind of felony.[1]

The Seventh Circuit reasoned similarly in *Atkinson v. Garland*, 70 F.4th 1018 (7th Cir. 2023). The defendant there filed an as-applied challenge to § 922(g)(1), arguing that his 24-year-old non-violent felony conviction for mail fraud should not forever strip him of his Second Amendment rights. *Id.* at 1021–22. The district court dismissed the case based on then-binding Seventh Circuit precedent that foreclosed as-applied challenges to § 922(g)(1). *Id.* at 1022. On appeal, the Seventh Circuit vacated that decision in light of *Bruen*. *See id.* But before it remanded for the district court to consider *Bruen* in the first instance, it rejected the argument that *Heller*'s "presumptively lawful" dicta empowers courts "to sidestep *Bruen*." *Id.* at 1022. The Seventh Circuit also took the opportunity to reject the government's analogy to Founding-era laws that subjected felons to "execution and estate forfeiture." *Id.* Finally, it warned the government that on remand it would need "to focus on how the

---

[1] While the Fifth Circuit ultimately upheld § 922(g)(1) as applied to Diaz, it did so only because the government had produced historical "evidence … specifically targeted to Diaz's circumstances," including a tradition of "authorizing severe punishments for thievery and permanent disarmament in [analogous] cases." 116 F.4th at 468-71. And the court clarified that its "holding is not [simply] premised on the fact that Diaz is a felon," as any such reasoning would fail "the level of historical rigor required by *Bruen* and its progeny." *Id.* at 469

substance of historical examples compares to § 922(g)(1)"; blind deference to legislative judgment will not do. *Id.* at 1023–25.

Rounding out the circuits to have addressed the issue is the Sixth, which is betwixt and between. In *United States v. Williams*, 113 F.4th 637 (6th Cir. 2024), the Sixth Circuit firmly rejected application of its prior precedent upholding § 922(g)(1), holding that "*Bruen* requires a history-and-tradition analysis that our circuit hasn't yet applied to this statute." *Id.* at 645. Writing for a majority, Judge Thapar found that "other circuits have read too much into the Supreme Court's repeated invocation of 'law-abiding, responsible citizens,'" and that "construing the Second Amendment to apply only to such citizens," to the categorical exclusion of felons, "is inconsistent with both *Heller* and the individualized nature of the right to keep and bear arms." *Id.* at 646–47. But in applying *Bruen*'s historical-tradition test, the Sixth Circuit did not analyze the § 922(g)(1) challenge before it by focusing on whether the government had proven that historical tradition supports depriving people of their Second Amendment rights based on the predicate offenses underlying the defendant's conviction. Instead, it concluded that because some historical regulations allowed "individuals [to] demonstrate that their particular possession of a weapon posed no danger to peace," a defendant challenging § 922(g)(1) as applied to himself must make an individualized showing "that he is not dangerous." *Id.* at 657. According to the court, because "officials of old" made individualized assessments of dangerousness, courts today must "focus on each individual's *specific characteristics*," including not only his "entire criminal record" but any "information beyond [his] criminal convictions" as well. *Id.* at 657–58, 658 n.12.

In sum, multiple circuits have embraced the flawed logic the Ninth Circuit employed below, other circuits have explicitly rejected it, and courts generally are hopelessly fractured on how to assess as-applied challenges to § 922(g)(1). This clear and intractable conflict and confusion "about [key aspects] of the analysis" calls out for this Court's resolution. *Morton*, 123 F.4th at 498 n.2.

V. The Decision Below Is Wrong.

Under this Court's precedents, all Second Amendment challenges are subject to the same burden-shifting analysis, steeped in "the Nation's historical tradition of firearm regulation." *Bruen*, 597 U.S. at 24. Under that constitutional framework, if the conduct in which someone wants to engage is covered by the text of the Second Amendment, then it is presumptively protected, and the government bears the burden to justify its regulation. *Id.* To do so, the government must identify historical firearm restrictions that are analogous to the modern challenged regulation in their "how and why"—i.e., the "modern and historical regulations" must "impose a comparable burden on the right of armed self-defense" that "is comparably justified." *Id.* at 29.

The Ninth Circuit's analysis in this case should therefore have been simple. The Second Amendment no doubt covers Mr. Rojo's proposed conduct—i.e., "to keep and bear arms for self-defense." *Id.* at 17. And Mr. Rojo is undeniably part of "the people" the Second Amendment protects. As *Heller* explained, that term "unambiguously refers to all members of the political community,"—i.e., "all

Americans"—"not an unspecified subset." 554 U.S. at 580–81. That means that the Second Amendment presumptively protects Mr. Rojo's right to keep and bear arms regardless of his non-violent felony convictions, as he is an American citizen who is "part of [our] national community." *Id.* at 580.

Answering the historical-tradition question here should have been equally straightforward. As then-Judge Barrett noted, "[h]istory does not support the proposition that felons lose their Second Amendment rights solely because of their status as felons." *Kanter*, 919 F.3d at 464 (Barrett, J., dissenting). Nor does it support applying § 922(g)(1) to strip Mr. Rojo in particular of his Second Amendment rights based on his *non-violent* offenses. Indeed, not even the earliest version of § 922(g)(1) itself—adopted in 1938—justifies its application here. Of course, one law from 1938 could not demonstrate a "longstanding" tradition under *Rahimi*, 602 U.S. at 693–97 (focusing on Founding-era sources), or *Bruen*, 597 U.S. at 34 (focusing on Founding- and Reconstruction-era sources). Even so, the earliest version of § 922(g)(1) "applied only to *violent* criminals," such as those convicted of "murder, rape, kidnapping, and burglary." *Range*, 124 F.4th at 229. While that version (or application) of the law may be justified by our Nation's historical tradition of disarming individuals who have been "judge[d] dangerous," *Rahimi*, 602 U.S. at 694, 698, there is no analogous tradition justifying the categorical disarmament of citizens convicted of *non-violent* misconduct just because it happens to be punishable as a felony.

Rather than follow *Bruen*'s framework to that straightforward conclusion, the Ninth Circuit dodged it. According to the Ninth Circuit, this Court already blessed

§ 922(g)(1) in *Heller* by caveating that it did not mean "to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill." *Duarte*, 137 F.4th at 750 (quoting *Heller*, 554 U.S. at 626–27). Because *Heller* also suggested in a footnote that such "regulatory measures" are "presumptively lawful," *Heller*, 554 U.S. at 627 n.26, the Ninth Circuit held that there is no need to evaluate "historical tradition" to determine § 922(g)(1)'s constitutionality. *Id.* at 752. This Court's dictum in *Heller* and later "assurances" regarding the "presumptively lawful regulatory measures" in *Rahimi* were all the Ninth Circuit needed "to recognize a historical tradition of firearm regulation that supports the categorical application of § 922(g)(1) to felons." *Id.*

The problems with that shortcut approach are legion. For one thing, *Heller* described such measures as "*presumptively* lawful," *Heller*, 554 U.S. at 627 n.26 (emphasis added), which makes sense only if they could still be subject to challenge on (at the very least) an as-applied basis. For another, *Heller* cited no "longstanding prohibitions on the possession of firearms by felons," *see id.* at 626–27, so it betrays reason to suggest that it supplied the "historical tradition" necessary to justify all such laws, *Duarte*, 137 F.4th at 752. Indeed, *Heller* expressly disclaimed any such inquiry, noting that it did "not undertake an exhaustive historical analysis today of the full scope of the Second Amendment." 554 U.S. at 624, 635. And *Heller* acknowledged that the Court would need to "expound upon the historical justifications for" those "regulatory measures" should they present themselves in future cases. *Id.* at 635; *see also Kanter*, 919 F.3d at 453 (Barrett, J., dissenting) (*Heller* "explicitly deferred analysis of this issue").

If this Court *had* examined the history of felon-in-possession laws in any of its past cases, it would have discovered that they simply are not "longstanding"—at least not as *Bruen* and *Rahimi* defined that term. *See Rahimi*, 602 U.S. at 693–95 (focusing on Founding-era sources); *Bruen*, 597 U.S. at 34, 59–60 (Founding-and Reconstruction-era sources). "Prohibitions on the possession of firearms by felons" were not adopted in any state until the 1920s and 1930s, and not by the federal government until 1938. *Range*, 124 F.4th at 228–29, 229 n.9. And, as noted above, the 1938 prohibition applied *only* to felons convicted of *violent* crimes. It was not until 1968 that the current version of § 922(g)(1)—which applies to violent and non-violent felons alike—was enacted. *See* Gun Control Act of 1968, Pub. L. No. 90-618, § 922(g)(1), 82 Stat. 1213, 1220 (1968). None of those twentieth-century laws is "longstanding." *See Bruen*, 597 U.S. at 66 & n.28.

But even if § 922(g)(1) itself *were* "longstanding," that would not excuse the decision below, as *Bruen* and *Rahimi* were emphatic that "a court [may] conclude that" a restriction on arms-bearing conduct "falls outside the Second Amendment's 'unqualified command'" "[*o*]*nly* if" the government proves that it "is consistent with this Nation's historical tradition." *Id.* at 17 (emphasis added); *see also Rahimi,* 602 U.S. at 691–92 ("[W]hen the Government regulates arms-bearing conduct, … it bears the burden to 'justify its regulation'" by showing that it "is consistent with the principles that underpin our regulatory tradition."). And far from exempting the categories discussed in *Heller's* dicta from that rule, *Bruen* expressly applied it to one of them. New York argued that the Sullivan Law could be justified as a "law[] forbidding the carrying of firearms in sensitive places." *Bruen,* 597 U.S. at 30 (quoting *Heller,* 554 U.S. at 626). Yet the Court did not treat the law as presumptively constitutional just because New York made that argument. Nor did it conclude that it must decide whether that was a fair characterization to determine whether it fell into a special "presumptively lawful" category under *Heller*. The Court instead rejected New York's argument by scrutinizing it against historical tradition, explaining that "there is no historical basis for New York to effectively declare the island of Manhattan a 'sensitive place' simply because it is crowded and protected generally by the New York City Police Department." *Id.* at 31.

As that analysis reflects, the far more sensible understanding of *Heller*'s dicta is that the Court was simply recognizing the practical reality that certain measures are more likely to be consistent with historical tradition, not that there is no need to assess whether they actually are. 554 U.S. at 627. It blinks reality to suggest, as the decision below holds, that *Heller* meant to immunize a host of "regulatory measures" including § 922(g)(1), in passing and without any analysis. Again, that much should be obvious given the Court's "*presumptively* lawful" description itself, which "implies that felon-in-possession laws [could] be unlawful in at least *some* instances." *Duarte*, 137 F.4th at 782–83 (Van Dyke, J., dissenting); *Kanter*, 919 F.3d at 453 (Barrett, J., dissenting) (suggesting that *Heller*'s dictum could "mean that as-applied challenges are available").

To get around *Bruen*, the Ninth Circuit suggested that this Court "limited the scope of its opinion to 'law-abiding citizens,'" because this Court penned the phrase "fourteen times" in its 63-page-long decision. *Duarte*, 137 F.4th at 751. But this Court already rejected a similar argument in *Rahimi*, where it explained that *Heller* and *Bruen* "used the term 'responsible' to describe the class of ordinary citizens who undoubtedly enjoy the Second Amendment right," not to opine on what makes someone "responsible" or to address the Second Amendment "status of citizens who" are not. *Rahimi*, 602 U.S. at 701–02. So too with "law-abiding": The Court "did not define the term and said nothing about the status of citizens who" do not fit within it. *Id.* at 702. As with "responsible," "[t]he question was simply not presented." *Id.* This Court thus has not even identified what makes someone "law-abiding," let alone decided what significance that label has for disarmament laws.

After holding that *Heller*'s dicta immunized § 922(g)(1), the Ninth Circuit paid lip-service to *Bruen* and *Rahimi*, suggesting that they "confirm[]" the propriety of its shortcut. *Duarte*, 137 F.4th at 752. Wrong again.

Unable to find any actual historical tradition to support its application of § 922(g)(1) to disarm individuals based on their non-violent offenses, the court purported to divine, from two disparate categories of laws, two broad "principle[s]" that it (mis)characterized at such a "high level of generality" as to completely "water[] down the [Second Amendment] right," *Rahimi*, 602 U.S. at 740 (Barrett, J., concurring).

First, the court surmised that "legislatures may disarm those who have committed the most serious crimes"—by which it meant anything punishable as a felony—because "the greater punishment of death and estate forfeiture was permissible to punish felons" in colonial times and the early Republic. *Duarte*, 137 F.4th at 756. That reasoning suffers from a basic logic problem: That "the dead enjoy no rights does not tell us what the founding-era generation would have understood about the rights of felons who lived, discharged their sentences, and returned to society." *Kanter*, 919 F.3d at 462 (Barrett, J., dissenting). After all, "we wouldn't say that the state can deprive felons of the right to free speech," the "right to a jury trial, or [the right to] be free from unreasonable searches and seizures" "because felons lost that right via execution at the time of the founding." *Duarte*, 137 F.4th at 790 (VanDyke, J., dissenting) (quoting *Williams*, 113 F.4th at 658, and *Kanter*, 919 F.3d at 461-62 (Barrett, J., dissenting)). The Ninth Circuit's contrary approach turns the Second Amendment into "a second-class right." *Bruen*, 597 U.S. at 70.

The historical support for the Ninth Circuit's "premise" is also "shaky" at best. *Kanter*, 919 F.3d at 459 (Barrett, J., dissenting). For one thing, what constitutes a felony today has ballooned, and is thus nothing like it was at the Founding. *See id.* at 458–60; *Duarte*, 137 F.4th at 790–92 & n.7 (Van Dyke, J., dissenting). So the "most serious crimes" principle elides the critical question of what kinds of crimes today can be considered the "most serious" consistent with historical tradition. Moreover, as Judge VanDyke's dissenting opinion thoroughly lays out—with assistance from then-Judge Barrett's dissent in *Kanter* and Judge Bibas's dissent in *Folajtar v.*

Attorney General, 980 F.3d 897 (3d Cir. 2020)—the severe punishments of "death and estate forfeiture" for felony convictions at English common law were "frayed" "[e]ven before the Founding," and ultimately severed by the time of the Constitution's ratification. *Duarte*, 137 F.4th at 787–90. That is thus not a "longstanding" tradition in any sense of the word.

To boot, the court's "evidence of the 'unbroken understanding that the legislature could permanently disarm those who committed the most serious crimes' is just one Colonial-era English enactment and two *draft* proposals from the Founding-era and succeeding decades." *Id.* at 785 (VanDyke, J., dissenting). If "*three* colonial regulations" (that at least were enacted) did not "suffice to show a tradition of public-carry regulation" in *Bruen*, 597 U.S. at 46, it is a mystery how the Ninth Circuit could credit the government's far lesser showing here.

The three historical analogues the court referenced also fail on their own terms. "The 1689 English Bill of Rights"—which made clear that "Parliament" had unquestioned "regulatory power over firearms," *id.* at 757 (majority)—was *criticized* by our Founders because it was "secured to protestant subjects only" and protected merely "bearing arms for their defence, 'suitable to their conditions, and as allowed by law,'" William Rawle, *A View of The Constitution of The United States of America* 126 (Philip H. Nicklin ed. 1829). The Second Amendment, by contrast, was an "enlargement from the English Bill of Rights," not a privilege subject to the whims of the legislature. *See* Thomas M. Cooley, *The General Principles of Constitutional Law in the United States of America* 270 (1880). The Ninth Circuit's "indiscriminate[]

attribut[ion]" of English law "to the Framers of our own Constitution" is exactly the sort of shoddy historical analysis that *Bruen* explicitly cautioned against. 597 U.S. at 35.

The two other "historical analogues" the Ninth Circuit cited barely merit mention. Both were draft proposals—one from anti-federalist delegates in Pennsylvania and the other from a Louisiana statesman. *See Duarte*, 137 F.4th at 757. The former "failed to even obtain a majority of its own convention," and the latter was "never adopted" either. *Id.* at 787 (VanDyke, J., dissenting). They thus provide no evidence of any historical tradition, let alone one that could justify § 922(g)(1). And at best, the draft proposal lodged by the Pennsylvania anti-federalists—which would have provided "a right to bear arms 'unless for crimes committed, or real danger of public injury from individuals," *Duarte*, 137 F.4th at 757—evinced a concern "about threatened violence and the risk of public injury." *Kanter*, 919 F.3d at 456 (Barrett, J., dissenting). It was not "about felons in particular or even criminals in general." *Id.*

Oddly, the decision below appears to acknowledge that reality, as it describes the motivations (i.e., the "why") for these measures as to "bar possession of a firearm from persons" with "violent tendencies." *Id.* But Mr. Rojo, like many and perhaps most people subject to § 922(g)(1), was convicted of *non*-violent felonies, and the government has never suggested that he is, or is particularly likely to become, violent. Just as it failed to explain how the government's "modern and historical regulations impose a comparable burden on the right of armed self-defense," the Ninth Circuit completely failed to explain how § 922(g)(1)'s application to Mr. Rojo "is comparably justified" to historical draft proposals purposed to disarm *violent* individuals. Accordingly, its conclusion "that the severity of punishment at the founding implicitly sanctions the blanket stripping of rights from all felons," violent or not, "is misguided." *Kanter*, 919 F.3d at 461 (Barrett, J., dissenting).

The second tradition the court purported to identify fares even worse. According to the Ninth Circuit, a legislature may disarm without scrutiny any "categories of persons" that it believes "present a special danger" to society, without regard to whether that category bears any resemblance to a category disarmed at the founding. *Duarte*, 137 F.4th at 759–62 For support, the Ninth Circuit cited laws disarming Catholics, Native Americans, slaves, and free Blacks, in addition to laws disarming minors, those of "unsound mind," drunkards, and "tramps" (i.e., the homeless). *Id.* Not only do those laws "reflect overgeneralized and abhorrent prejudices that would not survive legal challenges today," *id.* at 760, but they are also poor historical analogues for § 922(g)(1).

As to the latter set of laws, none dates back to the Founding, and in any event none is "relevantly similar" in the "how" to § 922(g)(1), which *permanently* strips the right to keep and bear arms; all of the historical laws were temporary restrictions. *See id.* at 797–99 (VanDyke, J., dissenting). And while the former restrictions dated further back, many of them too were temporary. *Id.* at 787–90. What is more, they applied largely to groups that were not considered "persons" at the time, and regardless, were based on the fear that such groups were likely to "take up arms against the government." *Id.* at 793; *see also Kanter*, 919 F.3d at 464 (Barrett, J., dissenting). But § 922(g)(1) does not serve a remotely similar purpose. The various "abhorrent" and unconstitutional laws the court cited thus fail *Bruen*'s "why" test as well.

The consequences of the Ninth Circuit's decision to invoke those laws to bless any and all applications of § 922(g)(1)'s are perverse. As the majority admitted, its decision means that legislatures are "permitted to categorically disarm" any disfavored group "they deem[] dangerous" with impunity. *Duarte*, 137 F.4th at 760. That defies *Bruen*'s clear teaching that "judicial deference to legislative interest balancing … is not deference that the [Second Amendment] demands." 597 U.S. at 26. Of course, the government can regulate the right to keep and bear arms on a non-individualized basis, but it "does not get a free pass simply because [it] has established a 'categorical ban.'" *Kanter*, 919 F.3d at 465 (Barrett, J., dissenting) (quoting *United States v. Williams*, 616 F.3d 685, 692 (7th Cir. 2010)).

Taking the court's two principles of judicial deference to legislative interest-balancing "together" does not fix things. *Contra Duarte*, 137 F.4th at 762 (Collins, J., concurring in the judgment). In Judge Collins' view, combining the odious historical tradition of disarming Catholics, Blacks, and Native Americans with the historical tradition of punishing felons with estate forfeiture or death suffices to "cabin" the scope of deference to legislative disarmament by "tether[ing it] to some group that was actually [disarmed] at the founding," namely "felons." *Id.* at 801 (VanDyke, J., dissenting). But that distinction makes no difference, as it leaves legislatures free to eliminate Second Amendment rights by defining all manner of things as felonies, without regard to whether they involve the kind of conduct likely to make someone particularly dangerous. *See, e.g.*, Oral Argument, at 16:49-17:19, *United States v. Duarte*, 22-50048 (9th Cir. Dec. 4, 2023), perma.cc/E3PR-782P (government counsel agreeing that cutting off a mattress tag could be a disarmable felony). Judge Collins' position equally ignores the vast difference between felony convictions at the Founding and today, and elides that the pre-Founding practice of levying severe punishments for all felony convictions was frayed and severed long ago—so it is not, in fact, part of this Nation's historical tradition at all, much less its unbroken tradition of firearm regulation.

At bottom, Judge Collins' view does nothing to cure the basic problem with the majority's opinion: Allowing legislatures to disarm any individual who violates any criminal laws *they enact*, without reference to the nature of the conduct in which someone engaged, still subjects "Second Amendment rights" to "the sufferance of the legislature." *Id.* at 767 (Collins, J., concurring in the judgment).

VI. The Question Presented Is Exceptionally Important, and This Case Is an Effective Vehicle for This Court to Address It.

How to resolve § 922(g)(1) challenges is an exceptionally important question given the frequency with which the federal government seeks to dispossess citizens of firearms under § 922(g)(1). In fiscal year 2024 alone, over 90% of all § 922(g) convictions were under § 922(g)(1). U.S. Sent'g Comm'n, *Quick Facts: 18 U.S.C. §922(g) Firearms Offenses* (May 2025), perma.cc/2GZH-ADYB. And yet, "only 18.2 percent of felony convictions in state courts and 4.2 percent of federal felony convictions were for 'violent offenses.'" *Jackson*, 110 F.4th at 1125 n.2 (citation omitted). Adding that data to the increasing volume of constitutional challenges to those convictions, it is critical that courts have a shared (and correct) understanding of how to resolve them. Indeed, the government itself has made precisely this point in seeking review of decisions unfavorable to its maximalist position regarding the constitutionality of § 922(g)(1), both in this very case, and in others. *See, e.g.*, PFREB.19-20, *United States v. Duarte*, No. 22-50048 (9th Cir. May 14, 2024), Dkt.72-1; Pet. for. Cert.24-25, *Garland v. Range*, No. 23-374 (U.S. Oct. 5, 2023).

Moreover, there are more than 19 million Americans—a non-trivial proportion of the citizenry—with felony records. *See* Sarah K.S. Shannon et al., *The Growth, Scope, and Spatial Distribution of People with Felony Records in the United States, 1948–2010*, 54 Demography 1795, 1806 (2018), perma.cc/6TNR-NEFU. Left standing, the decision below effectively strips a sizable portion of the adult population of Second Amendment protections, based on absolute deference to the legislature's view that they are unworthy of exercising their inalienable rights.

There is no need to await further percolation in the lower courts, as all but two circuits have spoken, and there are no signs that they will all be able to independently reconcile their various disagreements about even the most fundamental aspects of the Second Amendment analysis in this area. To the contrary, the intractable confusion and conflict has already prompted the circuits to implore this Court for guidance. *See, e.g.*, *Morton*, 123 F.4th at 498 n.2 (asking "the Supreme Court [to] resolve" the "significant disagreement" among the circuits on this issue); *Jackson*, 121

F.4th at 660 (Stras, J., dissenting from the denial of rehearing en banc) (underscoring that "[t]he constitutionality of the felon-in-possession statute is as 'exceptionally important' as ever").

This case presents a suitable vehicle for providing much-needed guidance. The Ninth Circuit's en banc decision in *Duarte* entrenches a dangerously broad theory of judicial deference to legislative power over constitutional rights, under which courts must defer to modern legislatures' disarmament of disfavored groups. It raises the troubling prospect of déjà vu all over again, with the same courts that distorted *Heller* in service of upholding restrictive carry regimes now distorting *Bruen* and *Rahimi* in service of upholding sweeping disarmament laws. Indeed, courts are routinely examining § 922(g)(1) challenges as if the only thing this Court has ever said is that Second Amendment rights are "not unlimited," and that felon-in-possession laws are "presumptively lawful." It is high time to say more, and this case presents an excellent opportunity to do so.

CONCLUSION

For the foregoing reasons, this Court should grant the petition for certiorari.

Respectfully submitted,

s/ Katie Hurrelbrink

DATE: June 3, 2026

KATIE HURRELBRINK
Federal Defenders of San Diego, Inc.
225 Broadway, Suite 900
San Diego, California 92101
Telephone: (619) 234-8467

Attorneys for Petitioner