No. ____

In The Supreme Court of the United States

ISAIAH JAQJAN FISHER,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

APPENDIX

John G. Baker
FEDERAL PUBLIC DEFENDER FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
Joshua B. Carpenter
Appellate Chief
Counsel of Record
One Page Avenue, Suite 210
Asheville, NC 28801
Telephone: (828) 232-9992
Joshua_Carpenter@fd.org

Ashley A. Askari
Assistant Federal Public Defender
129 West Trade Street, Suite 300
Charlotte, NC 28202
Telephone: (704) 374-0720
Ashley_Askari@fd.org

TABLE OF CONTENTS

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-4527

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ISAIAH JAQJAN FISHER,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Martin K. Reidinger, Chief District Judge. (1:23-cr-00045-MR-WCM-1)

Submitted: November 21, 2025 Decided: January 9, 2026

Before KING, HARRIS, and HEYTENS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ON BRIEF: John G. Baker, Federal Public Defender, Ashley A. Askari, Assistant Federal Public Defender, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Charlotte, North Carolina, for Appellant. Amy Elizabeth Ray, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Isaiah Jaqjan Fisher appeals his conviction and the 18-month sentence imposed following his guilty plea to possession of a machinegun, in violation of 18 U.S.C. §§ 922(o), 924(a)(2). On appeal, Fisher's counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), stating that there are no meritorious grounds for appeal but questioning whether § 922(o) violates the Second Amendment facially or as applied to Fisher.[1] Although informed of his right to do so, Fisher has not filed a pro se supplemental brief. The Government has declined to file a response brief. We affirm.

In deciding whether § 922(o) is consistent with the Second Amendment, we first ask "whether the plain text of the Second Amendment guarantees the individual right to possess" machineguns. *Bianchi v. Brown*, 111 F.4th 438, 447 (4th Cir. 2024) (citation modified), *cert. denied*, *Snope v. Brown*, 145 S. Ct. 1534 (2025). "If not, that ends the inquiry: the Second Amendment does not apply." *United States v. Price*, 111 F.4th 392, 398 (4th Cir. 2024), *cert. denied*, 145 S. Ct. 1891 (2025). "But if it does, then, second, we must ask whether the government has justified the regulation as consistent with the principles that underpin our nation's historical tradition of firearm regulation." *Id.* (citation modified).

[1] Fisher's counsel also briefly asserts that there is a nonfrivolous issue regarding whether the district court erred in calculating Fisher's Sentencing Guidelines range. Although counsel asserts that Fisher does not wish to receive appellate review of this issue, we have nonetheless reviewed the issue pursuant to *Anders* and conclude that it lacks merit.

Here, the inquiry ends with the first step. At that step, courts ask "whether the weapons regulated by the challenged regulation were in common use for a lawful purpose, [such as] self-defense." *Id.* at 400 (citation modified). "We know from Supreme Court precedent that short-barreled shotguns and machineguns are not in common use for a lawful purpose." *Id.* at 403; *see District of Columbia v. Heller*, 554 U.S. 570, 624 (2008) (noting that it would be "startling" to suggest "that the National Firearms Act's restrictions on machineguns . . . might be unconstitutional"). Additionally, the record reflects that the weapon Fisher possessed qualified as a machinegun because it could shoot multiple rounds with one function of the trigger. *See* 26 U.S.C. § 5845(b) (defining machinegun). We therefore conclude that § 922(o) is constitutional on its face and as applied to Fisher's conduct in possessing a machinegun.[2]

In accordance with *Anders*, we have reviewed the entire record in this case and have found no potentially meritorious grounds for appeal. We therefore affirm the district court's judgment.

This court requires that counsel inform Fisher, in writing, of the right to petition the Supreme Court of the United States for further review. If Fisher requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that

[2] "It could be argued that [Fisher's] unconditional guilty plea . . . waived any as-applied constitutional challenges" to § 922(o). *United States v. Pittman*, 125 F.4th 527, 531 (4th Cir. 2025) (citation modified). Because we conclude that Fisher's as-applied challenge fails on its merits, even on de novo review, we need not resolve whether his guilty plea waived that challenge. *See id.*

a copy thereof was served on Fisher. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: January 9, 2026

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-4527
(1:23-cr-00045-MR-WCM-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ISAIAH JAQJAN FISHER

Defendant - Appellant

J U D G M E N T

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ NWAMAKA ANOWI, CLERK

UNITED STATES DISTRICT COURT
Western District of North Carolina

UNITED STATES OF AMERICA	)	**JUDGMENT IN A CRIMINAL CASE**
	)	(For Offenses Committed On or After November 1, 1987)
V.	)	
	)	
ISAIAH JAQJAN FISHER	)	Case Number: DNCW123CR000045-001
	)	USM Number: 66096-510
	)	
	)	Emily M. Jones
	)	Defendant's Attorney

THE DEFENDANT:

- ■ Pleaded guilty to count 1.
- ☐ Pleaded nolo contendere to count(s) which was accepted by the court.
- ☐ Was found guilty on count(s) after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offense(s):

Title and Section	Nature of Offense	Date Offense Concluded	Counts
18 U.S.C. § 922(o), 18 U.S.C. § 924(a)(2)	Possession of a Machinegun	7/31/2022	1

The Defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984, United States v. Booker, 125 S.Ct. 738 (2005), and 18 U.S.C. § 3553(a).

- ☐ The defendant has been found not guilty on count(s).
- ☐ Count(s) (is)(are) dismissed on the motion of the United States.

IT IS ORDERED that the Defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay monetary penalties, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence: 9/19/2024

Signed: September 22, 2024

Martin Reidinger
Chief United States District Judge

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **EIGHTEEN (18) MONTHS. The term of imprisonment imposed by this judgment shall be consecutive to any undischarged term of imprisonment imposed by any state or federal court, whether previously or hereafter imposed, particularly including the pending charges in State Court.**

■ The Court makes the following recommendations to the Bureau of Prisons:

1. Participation in any available educational and vocational opportunities.
2. Participation in the Federal Inmate Financial Responsibility Program.
3. Participation in any available mental health treatment programs.
4. Participation in the UNICOR program, if available.
5. Participation in any available substance abuse treatment program and, if eligible, receive benefits of 18:3621(e)(2).

■ The Defendant is remanded to the custody of the United States Marshal.

☐ The Defendant shall surrender to the United States Marshal for this District:

- ☐ As notified by the United States Marshal.
- ☐ At _ on _.

☐ The Defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- ☐ As notified by the United States Marshal.
- ☐ Before 2 p.m. on _.
- ☐ As notified by the Probation Office.

RETURN

I have executed this Judgment as follows:

____

____

Defendant delivered on ___________ to ____ at

____, with a certified copy of this Judgment.

____
United States Marshal

By: ______________________________________
Deputy Marshal

Defendant: Isaiah Jaqjan Fisher
Case Number: DNCW123CR000045-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **THREE (3) YEARS.**

☐ The condition for mandatory drug testing is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

CONDITIONS OF SUPERVISION

The defendant shall comply with the mandatory conditions that have been adopted by this court.

1. The defendant shall not commit another federal, state, or local crime.
2. The defendant shall not unlawfully possess a controlled substance.
3. 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 imprisonment and at least two periodic drug tests thereafter, as determined by the Court (unless omitted by the Court).
4. The defendant shall cooperate in the collection of DNA as directed by the probation officer (unless omitted by the Court).

The defendant shall comply with the discretionary conditions that have been adopted by this court and any additional conditions ordered.

5. The defendant shall report to the probation office in the federal judicial district where he/she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
6. The defendant shall report to the probation officer in a manner and frequency as directed by the Court or probation officer.
7. The defendant shall not leave the federal judicial district where he/she is authorized to reside without first getting permission from the Court or probation officer.
8. The defendant shall answer truthfully the questions asked by the probation officer. However, defendant may refuse to answer a question if the truthful answer would tend to incriminate him/her of a crime. Refusal to answer a question on that ground will not be considered a violation of supervised release.
9. The defendant shall live at a place approved by the probation officer. The probation officer shall be notified in advance of any change in living arrangements (such as location and the people with whom the defendant lives). If advance notification is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.
10. The defendant shall allow the probation officer to visit him/her at any time at his/her home or any other reasonable location as determined by the probation office, and shall permit the probation officer to take any items prohibited by the conditions of his/her supervision that the probation officer observes.
11. The defendant shall work full time (at least 30 hours per week) at lawful employment, actively seek such gainful employment or be enrolled in a full time educational of vocational program unless excused by the probation officer. The defendant shall notify the probation officer within 72 hours of any change regarding employment or education.
12. The defendant shall not communicate or interact with any persons he/she knows is engaged in criminal activity, and shall not communicate or interact with any person he/she knows to be convicted of a felony unless granted permission to do so by the probation officer.
13. The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer.
14. The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
15. The defendant shall not act or make any agreement with a law enforcement agency to act as a confidential informant without first getting the permission of the Court.
16. The defendant shall refrain from excessive use of alcohol and shall not unlawfully purchase, possess, use, distribute or administer any narcotic or controlled substance or any psychoactive substances (including, but not limited to, synthetic marijuana, bath salts) that impair a person's physical or mental functioning, whether or not intended for human consumption, or any paraphernalia related to such substances, except as duly prescribed by a licensed medical practitioner.
17. The defendant shall participate in a program of testing for substance abuse. The defendant shall refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of the testing. The defendant shall participate in a substance abuse treatment program and follow the rules and regulations of that program. The probation officer will supervise the defendant's participation in the program (including, but not limited to, provider, location, modality, duration, intensity) (unless omitted by the Court).
18. The defendant shall not go to, or remain at any place where he/she knows controlled substances are illegally sold, used, distributed, or administered without first obtaining the permission of the probation officer.
19. The defendant shall submit to a search if the Probation Officer has a reasonable suspicion that the defendant has committed a crime or a violation of a condition of supervised release. Such a search may be conducted by a U.S. Probation Officer, and such other law enforcement personnel as the probation officer may deem advisable, without a warrant or the consent of the defendant. Such search may be of any place where evidence of the above may reasonably be expected to be found, including defendant's person, property, house, residence, vehicle, communications or data storage devices or media or office.
20. The defendant shall pay any financial obligation imposed by this judgment remaining unpaid as of the commencement of the sentence of probation or the term of supervised release in accordance with the schedule of payments of this judgment. The defendant shall notify the court of any changes in economic circumstances that might affect the ability to pay this financial obligation.
21. The defendant shall support all dependents including any dependent child, or any person the defendant has been court ordered to support.
22. The defendant shall participate in transitional support services (including cognitive behavioral treatment programs) and follow the rules and regulations of such program. The probation officer will supervise the defendant's participation in the program (including, but not limited to, provider, location, modality, duration, intensity). Such programs may include group sessions led by a counselor or participation in a program administered by the probation officer.
23. The defendant shall follow the instructions of the probation officer related to the conditions of supervision.

ADDITIONAL CONDITIONS:

24. The defendant shall participate in a mental health evaluation and treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise the defendant's participation in the program (including, but not limited to, provider, location, modality, duration, and intensity). The defendant shall take all mental health medications as prescribed by a licensed health care practitioner.
25. The defendant shall participate in any applicable vocational services programs and follow the rules and regulations of such programs. Such a program may include job readiness training and skills development training.

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the Schedule of Payments.

ASSESSMENT	RESTITUTION	FINE
$100.00	$0.00	$0.00

☐ The determination of restitution is deferred. Any motion for restitution must be filed within days of the date of this order. Failing such filing, restitution amount becomes $0.00.

INTEREST

The defendant shall pay interest on any fine or restitution of more than $2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

■ The court has determined that the defendant does not have the ability to pay interest and it is ordered that:

■ The interest requirement is waived.

☐ The interest requirement is modified as follows:

COURT APPOINTED COUNSEL FEES

☐ The defendant shall pay court appointed counsel fees.

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

A ☐ Lump sum payment of $0.00 due immediately, balance due
☐ Not later than___________
☐ In accordance ☐ (C), ☐ (D) below; or

B ■ Payment to begin immediately through the Financial Responsibility Program (may be combined with ■ (D) below); or

C ☐ Payment in equal monthly installments of $50.00 to commence 60 days after the date of this judgment; or

D ■ In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision through the Financial Responsibility Program, payments shall be made in equal **monthly** installments of **$50.00** to commence **60 days** after release from imprisonment to a term of supervision. The U.S. Probation Officer shall pursue collection of the amount due, and may request to modify a payment schedule if appropriate 18 U.S.C. § 3572.

Special instructions regarding the payment of criminal monetary penalties:

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court costs:

■ The defendant shall forfeit the defendant's interest in the following property to the United States as set forth in the Consent Order **(Doc. 36)** entered **3/1/2024**:

- **Glock 23, .40 caliber pistol, SN: HZW350;**
- **Approximately 45 rounds of 9mm caliber ammunition; and**
- **A firearm slide equipped with a "Glock Switch" machinegun.**

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. **All criminal monetary penalty payments are to be made to the United States District Court Clerk, 401 West Trade Street, Room 1301, Charlotte, NC 28202**, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. All criminal monetary penalty payments are to be made as directed by the court.

The Defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

STATEMENT OF ACKNOWLEDGMENT

I understand that my term of supervision is for a period of _______months, commencing on ____________________.

Upon a finding of a 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.

I understand that revocation of probation and supervised release is mandatory for possession of a controlled substance, possession of a firearm and/or refusal to comply with drug testing.

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

(Signed) ____________________________________ Date: _________________
Defendant

(Signed) ____________________________________ Date: _________________
U.S. Probation Office/Designated Witness

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:23-cr-00045-MR-WCM

UNITED STATES,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**MEMORANDUM OF**
	)	**DECISION AND ORDER**
ISAIAH FISHER,	)	
	)	
Defendant.	)	
	)	

THIS MATTER is before the Court on the Defendant's Motion to Dismiss [Doc. 20].

I. PROCEDURAL BACKGROUND

On June 6, 2023, the Defendant was charged in a Bill of Indictment with possessing a machinegun in violation of 18 U.S.C. § 922(o) and 924(a)(2). [Doc. 1]. Specifically, the Defendant was indicted for possessing "a machinegun conversion kit, commonly referred to as a Glock Switch, a part designed solely and exclusively for use in converting a weapon into a machinegun." [Id.]. The Defendant is currently scheduled for trial during the March 4, 2024, trial term. [Doc. 25].

On November 22, 2023, the Defendant filed the present Motion to Dismiss on the grounds that 18 U.S.C. § 922(o)[1] is unconstitutional in light of the Supreme Court's recent decision in New York State Rifle & Pistol Ass'n, Inc. v. Bruen, 597 U.S. 1 (2022). [Doc. 20]. The Government filed a Response to the Defendant's Motion to Dismiss on December 27, 2023. [Doc. 26]. The Defendant filed a Reply on January 17, 2024. [Doc. 28].

II. ANALYSIS

In D.C. v. Heller, the Supreme Court held that "[t]he Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home." 554 U.S. 570, 570 (2008). The Court further explained that the sorts of weapons protected under the Second Amendment are those that are "in common use at the time," and not "dangerous and unusual weapons." Id. at 627. The Court relied in part on U.S. v. Miller, which held that prohibitions on the possession of machineguns do not violate the Second Amendment, for the proposition that "the Second Amendment does not protect those weapons not typically possessed by law-

[1] The statute provides in relevant part that "it shall be unlawful for any person to transfer or possess a machinegun." 18 U.S.C. § 922(o)(1).

abiding citizens for lawful purposes." Id. at 625 (citing U.S. v. Miller, 307 U.S. 174, 179 (1939)).

In the years following Heller, the Courts of Appeals developed a two-step framework for analyzing Second Amendment challenges that combines history with means-end scrutiny. Bruen, 597 U.S. at 17. The Fourth Circuit articulated such a framework in United States v. Chester:

> The first question is whether the challenged law imposes a burden on conduct falling within the scope of the Second Amendment's guarantee. This historical inquiry seeks to determine whether the conduct at issue was understood to be within the scope of the right at the time of ratification. If it was not, then the challenged law is valid. If the challenged regulation burdens conduct that was within the scope of the Second Amendment as historically understood, then we move to the second step of applying an appropriate form of means-end scrutiny.

628 F.3d 673, 680 (4th Cir. 2010) (citations omitted).

In New York State Rifle & Pistol Ass'n, Inc. v. Bruen, the Supreme Court articulated a new standard for challenges to state action under the Second Amendment, doing away with the previous "means-end" test that developed after Heller. Bruen, 597 U.S. at 19. Bruen involved a challenge to a New York state law that required an applicant for a concealed carry license to prove that "proper cause" existed in order for the licensing officer to issue it. Id. at 12. The Court struck down the law, holding that under their new standard, "the government must affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms." Id. at 19. The Supreme Court explained that this new standard is consistent with their previous holding in Heller, as Heller "do[es] not support applying means-end scrutiny in the Second Amendment context." Id. Therefore, only the first step of the post-Heller two-step approach adopted by the federal appellate courts, the historical inquiry, is the proper test. Id.

Given that Bruen did not overrule Heller, courts have continued to uphold § 922(o) in response to Second Amendment challenges. United States v. Lane, No. 3:23CR62 (RCY), 2023 WL 5663084 (E.D. Va. Aug. 31, 2023); United States v. Wilson, No. 2:23-CR-20081-TLP-1, 2023 WL 8288989 (W.D. Tenn. Nov. 7, 2023); United States v. Bazile, No. CR 23-34, 2023 WL 7112833 (E.D. La. Oct. 27, 2023); United States v. Sturgeon, No. CR 23-6-DLB-CJS-1, 2023 WL 6961618 (E.D. Ky. Oct. 20, 2023); United States v. Cooperman, No. 22-CR-146, 2023 WL 4762710 (N.D. Ill. July 26, 2023); United States v. Kittson, No. 3:21-CR-00075-IM, 2023 WL 5015812 (D. Or. Aug. 7, 2023); see also Bevis v. City of Naperville, Illinois, 85 F.4th 1175 (7th Cir. 2023) (upholding state law assault weapons ban under Bruen). Indeed, because Bruen also did not overrule Miller, the Court's analysis could end here, without wading into the specifics of the Defendant's arguments.

One such argument relies on the "common use" language from Heller for the proposition that machineguns are indeed in common use, and therefore the Second Amendment has evolved to cover them. The Defendant points to the fact that 741,146 machineguns were registered with the federal government. [Doc. 20 at 7-9]. This number, however, would include those machine guns possessed by law enforcement and other governmental entities, as well as firearms dealers who provide weapons to such entities. 27 CFR § 479.105 (c),(d). Defendant's source says nothing regarding the number of machine guns in the hands of ordinary citizens.[2]

The Defendant also argues that the "dangerous and unusual" justification for excluding a type of weapon from the Second Amendment requires that weapons excluded be both dangerous *and* unusual, in reliance on Justice Alito's concurring opinion in Caetano v. Massachusetts. 577 U.S. 411, 417 (2016). Of course, as a concurring opinion, with which only one other justice joined, it has no precedential value. Moreover, the Defendant's argument based thereon begs the question. Obviously, all firearms are

[2] By contrast, the same report cited by the Defendant states that more than 2.6 million silencers are registered, as are more than 3.3 million explosive devices (pipe bombs, grenades, etc.).

dangerous, so a conjunctive test would require that any unusual firearm is not protected by the Second Amendment. This would effectively and illogically turn the Second Amendment into a prohibition on "odd" weapons based on numbers and availability. Rather than reading "dangerous and unusual" as a conjunctive test, this Court instead reads "dangerous and unusual" to mean "unusually dangerous." Therefore, the fundamental question is whether machineguns are materially more dangerous than weapons currently in common use, such as handguns, hunting rifles, or shotguns. The answer is clearly yes. Rather than producing a single projectile of lead, machineguns create a veritable explosion of lead shrapnel. Furthermore, the spray of projectiles from a machinegun is largely uncontrolled, except when in the hands of someone carefully trained.

The Defendant additionally argues that 922(o) is unconstitutional as applied to him because he was indicted only for possessing a Glock Switch, and, because Glock Switches are becoming more common, they do not meet the "unusual" requirement of "dangerous and unusual." [Doc. 20 at 10]. This argument seemingly equates the fact that Glock Switches are becoming more common to them being "in common use." Moreover, and as explained above, this Court will simply analyze whether Glock Switches are unusually dangerous, and easily finds that they are. A Glock Switch converts a common handgun into a machine gun, thus making it much more dangerous than just a handgun. A handgun is also smaller than a typical machinegun, making it more difficult to control, and therefore more dangerous, once a Glock Switch is added.

For all the foregoing reasons, the Defendant's conduct here, possession of a Glock Switch, squarely falls outside the scope of conduct that, as the Supreme Court has emphasized, the Second Amendment was intended to protect. See Heller, 554 U.S. 570 at 625 ("[T]he Second Amendment does not protect those weapons not typically possessed by law-abiding citizens for lawful purposes, such as short-barreled shotguns. That accords with the historical understanding of the scope of the right."). Indeed, machineguns, and therefore machinegun conversion kits, are "dangerous and unusual weapons" that fall outside the protection of the Second Amendment. See id. at 624-65. Therefore, the Defendant's constitutional challenge fails at the first, and now only, step of the Heller and Bruen inquiry.

Accordingly, this Court rejects the Defendant's arguments and finds that 18 U.S.C. § 922(o) survives constitutional scrutiny under the Bruen standard. The Defendant's Motion will therefore be denied.

<u>ORDER</u>

IT IS THEREFORE ORDERED that the Defendant's Motion to Dismiss [Doc. 20] is **DENIED.**

Signed: February 13, 2024

Martin Reidinger
Chief United States District Judge

FILED
ASHEVILLE, NC
JUN 06 2023
U.S. DISTRICT COURT
W. DISTRICT OF N.C.

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

UNITED STATES OF AMERICA	)	DOCKET NO. **1:23CR**45-MR-WCM
	)	
	)	**BILL OF INDICTMENT**
v.	)	
	)	Violation:
ISAIAH JAQJAN FISHER	)	18 U.S.C. § 922(o)
	)	

THE GRAND JURY CHARGES:

COUNT ONE

On or about, July 31, 2022, in Macon County, within the Western District of North Carolina and elsewhere, the defendant,

ISAIAH JAQJAN FISHER

did knowingly possess a machinegun, as defined in Title 18, United States Code, Section 921(a)(24) and Title 26, United States Code, Section 5845(b), to wit: a machinegun conversion kit, commonly referred to as a Glock Switch, a part designed solely and exclusively for use in converting a weapon into a machinegun.

In violation of Title 18, United States Code, Section 922(o) and 924(a)(2).

NOTICE OF FORFEITURE AND FINDING OF PROBABLE CAUSE

Pursuant to Federal Rule of Criminal Procedure 32.2, notice is hereby given of 18 U.S.C. § 924, and 28 U.S.C. § 2461(c). The following property is subject to forfeiture in accordance with Section 924 and/or Section 2461(c): all firearms or ammunition involved or in the violation set forth in this Bill of Indictment.

The Grand Jury finds probable cause to believe that the following property is subject to forfeiture on one or more of the grounds stated above:

1. One (1) Glock, model 23 pistol;
2. One (1) Firearm slide equipped with a Glock Switch; and
3. Approximately forty-five (45) rounds of 9mm caliber ammunition.

A TRUE BILL:

FOREPERSON

DENA J. KING
UNITED STATES ATTORNEY

ANNABELLE CHAMBERS
SPECIAL ASSISTANT UNITED STATES ATTORNEY