

No. _____

In the Supreme Court of the United States

JATERRON WILLIAMSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

***ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT***

PETITION FOR A WRIT OF CERTIORARI

J. Matthew Wright
Counsel of Record
FEDERAL PUBLIC DEFENDER'S
OFFICE
600 South Tyler Street
Suite 2300
Amarillo, Texas 79101
(806) 324-2370
Matthew_Wright@fd.org
Counsel for Petitioner

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QUESTIONS PRESENTED

1.

Federal law bans the possession of firearms by anyone who has ever been convicted of a crime punishable by more than one year of imprisonment. 18 U.S.C. § 922(g)(1). What rule(s) should the lower courts apply when evaluating whether a prosecution or conviction under that statute is consistent with the Second Amendment to the Constitution?

2.

Under the prevailing interpretation of the nexus-with-commerce element of 18 U.S.C. § 922(g)(1), a former felon possesses “in or affecting commerce” a firearm if the firearm was made in another state or country. Does Congress have the constitutional authority to enact such a law?

PARTIES TO THE PROCEEDING

Petitioner is Jaterron Williamson, an individual, who was Defendant-Appellant below. Respondent is the United States of America, who was Plaintiff-Appellee below.

DIRECTLY RELATED PROCEEDINGS

United States v. Jaterron Williamson, No. 4:24-cr-260 (N.D. Tex. April 29, 2025)

United States v. Jaterron Williamson, No. 25-10565 (5th Cir. Mar. 23, 2026)

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Jaterron Williamson asks the Court to issue a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The decision below is published at 170 F.4th 435.

JURISDICTION

The Fifth Circuit entered its judgment on March 23, 2026. This petition is timely under S. Ct. R. 13.1. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article I, Section 8, of the United States Constitution provides, in pertinent part:

The Congress shall have Power ... To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

The Second Amendment to the United States Constitution 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 of the United States Code, Section 922(g) provides, in pertinent part:

(g) It shall be unlawful for any person—

(1) 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 affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

Texas Penal Code § 22.05 provides, in pertinent part:

(b) A person commits an offense if he knowingly discharges a firearm at or in the direction of:

(1) one or more individuals; or

(2) a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied.

(c) Except as otherwise provided by this subsection, recklessness and danger are presumed if the actor knowingly pointed a firearm at or in the direction of another whether or not the actor believed the firearm to be loaded. The presumption under this subsection does not apply to a peace officer engaged in the lawful discharge of the officer's official duties.

* * * *

(e) An offense under Subsection (a) is a Class A misdemeanor. An offense under Subsection (b) is a felony of the third degree.

(f) Subsection (b)(1) does not apply to a peace officer if, at the time of the offense, the officer:

(1) was engaged in the actual discharge of the officer's official duties; and

(2) reasonably believed the discharge of the officer's firearm was justified under Chapter 9.

STATEMENT

After a federal grand jury indicted Petitioner Jaterron Williamson for unlawful possession of a firearm, he challenged the Government's authority to criminalize his conduct under Congress's enumerated powers and the Second Amendment. App., *infra*, 1a, 13a–23a. After the district court denied his motion to dismiss the indictment, (App., *infra*, 7a–10a), he pleaded guilty without waiving any appellate rights. The Fifth Circuit affirmed.

A. Legal Background

A federal statute criminalizes the possession “in or affecting commerce” of a firearm by nine categories of “prohibited persons.” 18 U.S.C. § 922(g). The vast majority of prosecutions under this statute—more than 90%—are against defendants previously “convicted in any court of, a crime punishable by imprisonment for a term exceeding one year.” 18 U.S.C. § 922(g)(1); *see* U.S. Sentencing Commission, *Quick Facts: 18 U.S.C. § 922(g) Firearms Offenses: Fiscal Year 2024* at 1, <https://perma.cc/4GKE-JHVA> (reporting 7,419 convictions under § 922(g); “90.4% were convicted ... because of a prior felony conviction.”).

Of course, § 922(g)(1) applies far beyond the thousands of people convicted and sentenced every year. According to the FBI, its background-check database includes more than 5.8 million “active entries” for people covered by § 922(g)(1). *See* FBI, Active Entries in the NICS Indices (May 31, 2026), https://www.fbi.gov/file-repository/cjis/active_records_in_the_nics-indices.pdf. That staggering number is still too low; it excludes “millions of people who have passed through the criminal justice system and completed their sentences” in non-reporting jurisdictions, or before the FBI started collecting records. 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, 1799 (2017); *see also id.* at 1806 (estimating the total population of former felons who had completed their sentences as 14.5 million as of 2010).

1. The federal possession ban first appeared, almost by accident, in the 1960s.

Nationwide, life-long firearm bans are a thoroughly modern phenomenon. The original federal law banning simple possession of firearms by felons emerged after manned space flight, the countertop microwave oven, and *Sgt. Pepper’s Lonely Hearts Club Band*.

Congress had banned interstate firearm transactions by people convicted of a few violent felonies in 1938. Pub. L. 75-785, 52 Stat. 1250. Congress expanded that law to reach all felons in 1961. *See* Pub. L. 87-342, 75 Stat. 757 (1961). The ban on simple possession appeared as “a last-minute Senate amendment” to a sprawling

1968 crime bill: “The Amendment was hastily passed, with little discussion, no hearings and no report.” *United States v. Bass*, 404 U.S. 336, 344 (1971).

Senator Russell Long proposed the possession ban in reaction to the assassinations of President Kennedy in 1963 and Dr. Martin Luther King, Jr., in 1968. 114 Cong. Rec. 14773 (1968). As the son of an assassinated politician, Long was especially interested in that problem. *Id.* at 14774. Long recognized that his contemporaries in Congress harbored “a constitutional doubt that the Federal Government could outlaw the mere possession of weapons.” *Id.* at 13868. But Long thought there was an easy way around that problem: Congress could “simply (find) that the possession of these weapons by the wrong kind of people is either a burden on commerce or a threat that affects the free flow of commerce.” *Id.* at 13869.

Despite his assurances, his fellow senators were skeptical. Senator John McClellan asked, “Can we, under the Constitution, deny a man the right to keep a gun in his home?” 114 Cong. Rec. 14774. He worried that a possession prohibition “may go too far.” *Id.* Senator Peter Dominick agreed: “I believe there are a number of instances in which it would be going too far to say that a man could no longer participate in duck shooting or pheasant shooting. . . . I have a feeling that perhaps we have gone too far, but perhaps this matter can be worked out in conference.” *Id.* at 14774–75. Senator Thomas Dodd was “a little uneasy about” the federal government banning mere possession: “[W]e will study it. I do not believe it would do any harm.” *Id.* at 14774. McClellan also agreed to “accept” Long’s proposed

amendment “for the purpose of studying it” and to “try to understand it.” *Id.* On May 23, 1968, the Senate agreed to Long’s amendment on a voice vote. *Id.* at 14775.

Twelve days later, Sirhan Sirhan shot Senator Robert Kennedy, who was the brother of the late president and a frontrunner in the 1968 race for that same office. Senator Kennedy died on the morning of June 6. Later that day, after a somber announcement of the death, the House agreed to all of the Senate amendments, including Senator Long’s gun-possession ban, without any Conference Committee and without any further study. 114 Cong. Rec. 16226, 16299–16300. President Johnson signed the law on June 19, 1968. *See* Pub. L. 90-351, 82 Stat. 197.

2. For most of the Twentieth Century, judges assumed that the Constitution posed no barrier to Congressional efforts to regulate gun possession.

For many years, the federal gun possession ban avoided serious constitutional scrutiny. Throughout the Twentieth century, courts “found no conflict between federal gun laws and the Second Amendment, narrowly construing the latter to guarantee the right to bear arms as a member of a militia.” *United States v. Graves*, 554 F.2d 65, 66 n.2 (3d Cir. 1977) (discussing *United States v. Miller*, 307 U.S. 174, 178–82 (1939), and its progeny). Beginning in the late 1930s—around 140 years after ratification—many judges and many members of expressed a very broad view of Congressional powers and a much narrower view of the Second Amendment. *See United States v. Lopez*, 514 U.S. 549, 556 (1995) (discussing “an era of Commerce Clause jurisprudence” beginning in 1937 “that greatly expanded the previously defined authority of Congress under that Clause”) ; *see also Miller*, 307 U.S. at 178 (

“In the absence of any evidence tending to show that possession or use of a [short-barrel shotgun] has some reasonable relationship to the preservation or efficiency of a well regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument.”).

Federal firearms laws enacted during this period—and the cases interpreting them—reflected this maximalist view of Congress’s power. In 1980, this Court went so far as to assert that felon bans “are neither based upon constitutionally suspect criteria, *nor do they trench upon any constitutionally protected liberties.*” *Lewis v. United States*, 445 U.S. 55, 65 (1980) (emphasis added) (citing *Miller*).

3. Early advocates of the Individual Rights model of the Second Amendment simply assumed that felon bans were historically supported.

Scholars wrote very little about the Second Amendment before 1980, but thereafter they quickly coalesced around the view that the Amendment protected an individual right to possess weapons for self-defense. Don B. Kates, *A Modern Historiography of the Second Amendment*, 56 UCLA L. Rev. 1211, 1212 (2009). The authors of two early (and influential) articles advocating the individual rights model assumed that a government could ban ex-felons from possessing firearms. *See* Kates, *supra*, at 217 & n.54 (“The Founders would not have understood the amendment as extending to felons, children or those so physically or mentally impaired as to preclude militia service.”); *see also* Robert Dowlut, *The Right to Arms: Does the Constitution or the Predilection of Judges Reign?*, 36 Okla. L. Rev. 65, 96 & n.47 (1983) (citing Thomas Cooley, *A Treatise on Constitutional Limitations* 57 (7th ed. 1903)).

The first federal appellate decision embracing the Individual Rights model also embraced these authors' assumption that felons could be disarmed. *See United States v. Emerson*, 270 F.3d 203, 261 (5th Cir. 2001) (“[I]t is clear that felons, infants and those of unsound mind may be prohibited from possessing firearms.”).

4. In *Heller*, this Court described felon bans as both “longstanding” and “presumptively lawful.” Scholars were quick to challenge the former assertion.

This Court adopted the Individual Rights model in *District Columbia v. Heller*, 554 U.S. 570 (2008). *Heller* also spoke approvingly of felon bans, albeit in dictum: “Although we do not undertake an exhaustive historical analysis today of the full scope of the Second Amendment, nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill.” *Id.* at 626; *see also id.* at 627 n.27 (describing felon bans as “presumptively lawful regulatory measures”). The Court promised that there would be “time enough to expound upon the historical justifications for the exceptions we have mentioned if and when those exceptions come before us.” *Id.* at 635.

Almost immediately, historical and legal scholars called *Heller*'s “historical” assumption into doubt. “Though recognizing the hazard of trying to prove a negative, one can with a good degree of confidence say that bans on convicts possessing firearms were unknown before World War I.” C. Kevin Marshall, *Why Can't Martha Stewart Have A Gun?*, 32 Harv. J.L. & Pub. Pol'y 695, 708 (2009); *see also* Carlton F.W. Larson, *Four Exceptions in Search of a Theory: District of Columbia v. Heller and Judicial Ipse Dixit*, 60 Hastings L.J. 1371, 1374 (2009) (“Indeed, so far as I can determine, no

colonial or state law in eighteenth-century America formally restricted the ability of felons to own firearms.”).

Despite this disconnect between what the Court wrote in *Heller* and what historical record actually reveals, the Court has thus far refused to “expound” upon the “historical justifications” for laws like § 922(g)(1). 554 U.S. at 635.

5. In *Bruen*, the Court recognized that the Constitution presumptively protects the very same conduct prohibited by § 922(g)(1).

In *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022), this Court chastised lower courts for their knee-jerk deference to statutes restricting firearm rights: “while that judicial deference to legislative interest balancing is understandable—and, elsewhere, appropriate—it is not deference that the Constitution demands here.” 597 U.S. at 26. Instead of deferring to a legislature’s “interest balancing,” *Bruen* propounded a test focused on the Second Amendment’s text and America’s historical tradition of firearm regulation: When the “plain text” of the Second Amendment covers an individual’s conduct, “the Constitution presumptively protects that conduct.” *Id.* at 17. To justify a regulation that burdens presumptively protected conduct, “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.

B. Facts and Procedural History

In July 2024, police officers in Fort Worth, Texas, went looking for Mr. Williamson to execute an arrest warrant. App., *infra*, 25a. They found him as he was

walking out of a convenience store. *Id.* He immediately informed the officers that he was carrying a Smith and Wesson pistol. *Id.* Officers removed the gun and arrested him. *Id.*

The following October, a federal grand jury returned an indictment charging Petitioner under 18 U.S.C. § 922(g)(1). App., *infra*, 11a–12a. Mr. Williamson moved to dismiss the indictment, arguing that the law (as commonly understood and applied) exceeded Congress’s enumerated powers and that it violated the Second Amendment on its face and as applied. App., *infra*, 13a–23a. After the district court denied the motion (App., *infra*, 7a–10a), Mr. Williamson pleaded guilty without waiving his right to appeal. App., *infra*, 24a–25a. The district court sentenced him to 46 months’ incarceration, followed by two years of supervised release. App., *infra*, 27a.

On appeal, the Fifth Circuit affirmed in a published decision. App., *infra*, 1a–2a. The Court acknowledged its earlier decision in *United States v. Diaz*, 116 F.4th 458 (5th Cir. 2024), which rejected the Government’s broad assertion of authority to ban gun possession by former felons. App., *infra*, 2a; *see Diaz*, 116 F.4th at 465–74. But the court felt bound to follow subsequent decisions that had upheld § 922(g)(1) as applied to others convicted of similar prior offenses.

Judge Willett, joined by Judge Wilson, wrote separately to express dismay about the inconsistent legal standards the Fifth Circuit uses to resolve Second Amendment challenges to § 922(g)(1). App., *infra*, 5a–6a (“In an appropriate case, our full court—or the Supreme Court—should supply the clarity this unsettled corner of

Second Amendment law now lacks.”). He also expressed doubt about whether the Fifth Circuit’s “precedent rejecting enumerated-powers challenges to § 922(g)(1) was correctly decided.” App., *infra*, 3a.

REASONS FOR GRANTING THE PETITION

I. THE COURT SHOULD GRANT THE PETITION TO EXPLAIN WHETHER AND WHEN § 922(g)(1) COMPORTS WITH THE SECOND AMENDMENT.

Section 922(g)(1) bans the very same conduct protected by the plain text of the Second Amendment—the keeping of arms. And before the Twentieth Century, there was no comparable tradition of banning millions of Americans from even possessing firearms based on Congress’s say-so.

For many years, courts assumed that 18 U.S.C. § 922(g)(1) was constitutional in all its applications—or at least in the vast majority of applications. After *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022), that unison devolved into cacophony. Until this Court steps in to address the issue, lower courts will continue to flounder.

Lower courts have made irreconcilable (and unpersuasive) attempts to reconcile *Heller*’s assurance that felon bans are constitutional with *Bruen*’s text-and-tradition test. The Fifth Circuit’s jurisprudence illustrates the confusion. According to one decision, each § 922(g)(1) prosecution should be evaluated based on the “prior convictions that are ‘punishable by imprisonment for a term exceeding one year.’” *United States v. Diaz*, 116 F.4th 458, 467 (5th Cir. 2024), *cert. denied*, No. 24-6625, 2025 WL 1727419 (U.S. June 23, 2025); *see also United States v. Kimble*, 142 F.4th

308, 315 (5th Cir. 2025) (quoting *Diaz*, 116 F.4th at 469) (“Although Congress can label certain classes of people—such as felons—dangerous, courts cannot grant those determinations blanket deference because the ‘shifting benchmark’ of felony status ‘should not define the limits of the Second Amendment.’”). In other published decisions, however, the Fifth Circuit has held that § 922(g)(1) can be constitutionally applied where the defendant’s felony convictions (or perhaps the allegations surrounding those convictions) indicate dangerousness. App., *infra*, 2a.

According to the Sixth Circuit, a former felon bears the burden of proving “that he is not dangerous,” and a court must evaluate dangerousness “considering the individual’s entire criminal record—not just the predicate offense for purposes of § 922(g)(1).” *United States v. Williams*, 113 F.4th 637, 657–58 (6th Cir. 2024). Channeling Justice Stewart’s concurring opinion in *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964), the Sixth Circuit expressed confidence in district courts’ ability to assess which predicate offenses are dangerous enough to warrant lifelong disarmament and which are not. *Williams*, 113 F.4th at 660 (“We are therefore confident that the dangerousness inquiry is workable for resolving as-applied challenges to § 922(g)(1).”).

The Eighth Circuit disagreed: “we conclude that there is no need for felony-by-felony litigation regarding the constitutionality of § 922(g)(1).” *United States v. Jackson*, 110 F.4th 1120, 1125 (8th Cir. 2024), *reh’g denied*, 121 F.4th 656, *cert. denied*, No. 24-6517, 2025 WL 1426707 (U.S. May 19, 2025).

None of these approaches is entirely satisfactory. Perhaps recognizing this, the government recently revived the relief-from-disability procedure under 18 U.S.C. § 925(c). *See generally* Pet. Br. 40–42, *United States v. Hemani*, No. 24-1234 (U.S. filed Dec. 12, 2025). That mechanism was unavailable to Petitioner when he possessed the firearms at issue here.

As Respondent will surely point out, members of this Court have repeatedly expressed agreement with *Heller*’s assertion that felon bans are presumptively lawful. *See McDonald v. City of Chicago*, 561 U.S. 742, 786 (2010) (plurality op.) (“We repeat those assurances here.”); *see also Bruen*, 597 U.S. at 81 (Kavanaugh, J., concurring); *United States v. Rahimi*, 602 U.S. 680, 699 (2024); *United States v. Hemani*, No. 24-1234, 2026 WL 1751710, at *17 (U.S. June 18, 2026) (Alito, J., concurring). But none of those decisions grappled with the historical record as related to felons.

This Court should grant the petition and explain whether and when the Second Amendment allows a defendant to be imprisoned for simply possessing a firearm, the very same conduct protected by the plain text of the Second Amendment.

II. THE COURT SHOULD GRANT THE PETITION AND ADDRESS WHETHER A FIREARM’S PRIOR MOVEMENT ACROSS STATE LINES MEETS THE MINIMUM STATUTORY AND CONSTITUTIONAL REQUIREMENTS FOR PROVING A NEXUS WITH COMMERCE.

When the Founders decided to form a stronger national government, they had to overcome objections that Congress would eventually utilize its power to disarm disfavored citizens. Federalists believed that the enumeration of limited and specific

powers would keep Congress from disarming anyone. *Heller*, 554 U.S. at 599. Antifederalists worried that those limits might not hold, and the Government would later disarm citizens in favor of a standing army or organized militia. The Second Amendment was designed to allay those fears. *Id.* at 598–600. After ratification of the Bill of Rights, Americans understood that their right to keep arms had twofold protection: “No clause in the Constitution could by any rule of construction be conceived to give to congress a power to disarm the people. ... But if in any blind pursuit of inordinate power,” Congress *did* attempt it, “this amendment may be appealed to as a restraint.” William Rawle, *A View of the Constitution of the United States* 125–26 (2d ed. 1829). A nationwide Congressional ban on keeping arms would have scandalized the founding generation. Nothing like it existed during the first 180 years of our nation’s existence.

One of Congress’s “few and defined” powers is the power “[t]o regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.” U.S. Const., art. I, § 8. In *United States v. Lopez*, 514 U.S. 549 (1995), this Court held that the commerce power does not authorize regulation of a purely local, non-economic activity like “possession of a gun in a school zone.” *Id.* at 560. The original version of the Gun-Free School Zones Act (“GFSZA”) exceeded Congress’s commerce power. *Id.* at 561 (discussing Pub. L. 101-647, 104 Stat. 4844 (1990)).

Unlike the original GFSZA, § 922(g)’s possession prong requires proof of a nexus element—that the defendant possessed “in or affecting commerce” a firearm. *Lopez* assumed that this nexus element “would ensure, through case-by-case inquiry,

that the firearm possession in question affects interstate commerce.” *Id.* If that were true, then the element would often present “a complicated legal question” that would delight “students of constitutional law.” *Rehaif v. United States*, 588 U.S. 225, 250, (2019) (Alito, J., dissenting).

But this Court construed the nexus element in a predecessor statute to reach *any* possession of a firearm if the firearm itself previously moved in interstate or foreign commerce. *Scarborough v. United States*, 431 U.S. 563 (1977). The constitutional logic of *Lopez* cannot be reconciled with the statutory holding of *Scarborough*. See *Alderman v. United States*, 562 U.S. 1163 (2011) (Thomas, J., dissenting from denial of certiorari); see also *United States v. Seekins*, 52 F.4th 988, 989 (5th Cir. 2022) (Ho, J., dissenting from denial of reh’g); accord *Hemani*, 2026 WL 1751710, at *12 (Thomas, J., concurring) (“[T]he Court, and lower courts, should revisit the constitutionality of § 922(g).”). In the decision below, Judges Willett and Wilson both agreed that this Court should resolve the tension between Commerce Clause jurisprudence and the prevailing interpretation of § 922(g)’s nexus-with-commerce element. App., *infra*, 3a–5a.

While there is a thriving debate among judges and scholars about the original meaning of the Second Amendment, no one has persuasively argued that the Commerce Clause, as originally understood, granted Congress the power to say who could and who could not possess items if those items had ever crossed a state or national boundary. After all, if Congress had that power under the unamended Constitution, then it had the power to forbid weapon possession entirely and thereby

disarm the state militias. Even at the founding, most firearms were manufactured in states other than their final

In *Scarborough v. United States*, 431 U.S. 563 (1977), this Court considered the first, hastily passed possession ban and found “no indication that Congress intended to require any more than the minimal nexus that the firearm have been, at some time, in interstate commerce.” *Id.* at 575.

This Court has never considered whether that same interpretation governs the post-1986 version of § 922(g)(1). The defendant in *Scarborough* argued that possession required proof of a *present* connection to commerce, whereas a past connection would satisfy the nexus element for *receipt*. 431 U.S. at 569. The Court rejected that argument because, at the time, possession was prohibited only in a last-minute addendum, without much care for verb tense, in an entirely separate title. *Id.* at 569–70. But in 1986 Congress combined the prohibitions into a single statute, with three different nexus elements depending on the prohibited activity:

It shall be unlawful for any [prohibited] person:

to ship or transport in interstate or foreign commerce,

or possess in or affecting commerce, any firearm or ammunition;

or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce

18 U.S.C. § 922(g) (emphases added).

In § 922(g)’s current form, there are two textual distinctions between the nexus elements for “possess” and “receive.” First, for possession, the Government must prove a nexus *for the possession itself*; for receipt, the nexus element modifies

“firearm” or “ammunition.” *Id.* Second, because the phrase “in or affecting commerce” modifies the present-tense verb “possess,” the text requires a *present* connection with commerce (even if that connection is unspecified). For receipt, “the proscribed act, ‘to receive any firearm,’ is in the present tense, the interstate commerce reference is in the present perfect tense, denoting an act that has been completed.” *Barrett v. United States*, 423 U.S. 212, 216 (1976).

Given the differences in language and the post-*Lopez* understanding of the Commerce Power, there are reasons to reject *Scarborough*’s interpretation of the 1968 possession ban, when applied to the post-1986 version of § 922(g). And even if that interpretation of *statutory language* were correct, the statute would exceed Congress’s power under the Constitution. The movement of a durable item like a firearm from one state to another may be “commerce,” but the item does not remain “in commerce” forever. There is “no better example of the police power, which the Founders denied the National Government and reposed in the States, than the suppression of violent crime and vindication of its victims.” *United States v. Morrison*, 529 U.S. 598, 618 (2000).

The current version of the possession ban makes up more than 10% of federal prosecutions. See Emily Tiry et al., *Prosecution of Federal Firearms Offenses 2000-16* at 4–5, Tables 1 & 2 (Urban Institute Oct. 2021).¹ Despite repeated calls for additional guidance, this Court has never explained how the prevailing interpretation of 18

¹ Available at <https://www.ojp.gov/pdffiles1/bjs/grants/254520.pdf> (accessed May 7, 2024).

U.S.C. § 922(g)'s possession-nexus element is consistent with the original understanding of the Constitution.

Under the prevailing interpretation of 18 U.S.C. § 922(g), the statute entirely bans *millions* of Americans from possessing and carrying firearms, on pain of up to fifteen years in prison. This Court should grant certiorari to explain whether that interpretation is consistent with Congress's enumerated powers.

CONCLUSION

This Court should grant the petition and set this case for a decision on the merits.

Respectfully submitted,

J. Matthew Wright
Counsel of Record
FEDERAL PUBLIC
DEFENDER'S OFFICE
600 South Tyler Street
Suite 2300
Amarillo, Texas 79101
(806) 324-2370
Matthew_Wright@fd.org

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