

NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

RICHARD JOSEPH PRICE,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent

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

PETITION FOR A WRIT OF CERTIORARI

Respectfully submitted,

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QUESTIONS PRESENTED FOR REVIEW

1. Whether a criminal defendant may raise an as-applied Second Amendment challenge to 18 U.S.C. § 922(g)(1).
2. Whether 18 U.S.C. § 922(g)(1)'s lifetime ban on firearm possession for all individuals previously convicted of any felony offense is an unconstitutional infringement of the right to keep and bear arms guaranteed by the Second Amendment.

LIST OF PARTIES

The parties to the proceeding in the court whose judgment is sought to be reviewed were the petitioner, Richard Joseph Price, who was the appellant below, and the respondent, the United States of America, who was the appellee below.

LIST OF DIRECTLY RELATED PROCEEDINGS

United States v. Richard Joseph Price, No. 5:23-cr-50069, U.S. District Court for the Western District of Arkansas. Judgment entered November 7, 2024.

United States v. Richard Joseph Price, No. 24-3344, U.S. Court of Appeals for the Eighth Circuit. Judgment entered March 25, 2026.

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PETITION FOR A WRIT OF CERTIORARI

OPINION BELOW

On March 25, 2026, the Eighth Circuit entered its opinion and judgment, in which it affirmed the district court’s denial of Richard Joseph Price’ motion to dismiss the indictment on Second Amendment grounds and affirmed the sentence it imposed. *United States v. Price*, No. 24-3344, 2026 WL 820394 (8th Cir. Mar. 25, 2026) (per curiam). Petitioner’s Appendix (“Pet. App.”) 1a.

JURISDICTION

The judgment of the court of appeals was entered on March 25, 2026. This petition is timely submitted. Jurisdiction to review the judgment of the court of appeals is conferred upon this Court by 28 U.S.C. § 1254.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Petitioner refers the Court to the following relevant constitutional and statutory provisions:

The Second Amendment to the United States Constitution states:

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.

Section 922 of Title 18 of the United States Code provides in relevant 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.

STATEMENT OF THE CASE

1. On November 15, 2023, a one-count indictment was filed in the Western District of Arkansas charging Richard Joseph Price with being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1) and 924(a)(8). The district court had jurisdiction over this federal criminal case pursuant to 18 U.S.C. § 3231. On May 20, 2024, Mr. Price filed a motion to dismiss the indictment, arguing that, based on *N.Y. State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022), his indictment was an unconstitutional infringement of the rights guaranteed to him under the Second Amendment to the United States Constitution. On June 5, 2024, the district court entered an order summarily denying the motion to dismiss in light of Eighth Circuit precedent. Price entered a conditional plea of guilty to the indictment and was sentenced to 121 months imprisonment.

2. The factual basis in the plea agreement indicated that Mr. Price and another individual were involved in an incident while traveling on Interstate 49 in or near Fayetteville, Arkansas. The other individual reported the incident to law enforcement and advised that he believed Price possessed a firearm. Dispatch advised that both parties had arrived at a Motel 6 in Fayetteville. When officers responded to the motel, they observed Price to be showing signs of intoxication and established that probable cause existed to arrest him for the offense of driving while intoxicated. During an ensuing search of Price’s truck, officers found an open container of alcohol and a loaded 9mm pistol with an obliterated serial number.

3. Mr. Price appealed his conviction to the United States Court of Appeals for the Eighth Circuit. The court of appeals had jurisdiction pursuant to 28 U.S.C. § 1291, which gives it jurisdiction over all final decisions of the district courts of the United States. Price asserted the same argument on appeal that he had made to the district court—that 18 U.S.C. § 922(g)(1) is unconstitutional both on its face and as it was applied to him in particular. Price acknowledged that Eighth Circuit precedent prevented the court from agreeing with his argument on this issue. *See United States v. Jackson*, 110 F.4th 1120 (8th Cir. 2024). Price also argued to the Eighth Circuit that he had been sentenced under an incorrect guideline range.

4. In its unpublished opinion, a panel of the Eighth Circuit affirmed the district court’s judgment. *United States v. Price*, 24-3344, 2026 WL 820394 (8th Cir. Mar. 25, 2026) (per curiam); Pet. App. 1a. The court found that Mr. Price’s arguments on appeal were foreclosed by its precedent. In a footnote, the court cited *United States v. Rahimi*, 602 U.S. 680, 700 (2024), and remarked that, even if an as-applied challenge to the felon-in-possession statute were available to Price, his argument would fail because his criminal history demonstrated that he presents a credible threat to the safety of others.

REASONS FOR GRANTING THE PETITION

I. This Court should resolve an entrenched circuit split on the question of whether as-applied challenges to 18 U.S.C. § 922(g)(1) are cognizable.

Since this Court’s decision in *Bruen*, the circuits have split on whether a defendant charged with being a felon in possession of a firearm may argue that 18 U.S.C. § 922(g)(1) is unconstitutional as applied to his particular circumstances. The

Eighth Circuit has taken the position that § 922(g)(1) is categorically constitutional and that the district courts need not consider any as-applied challenges raised by those charged with violating it. *United States v. Jackson*, 110 F.4th 1120, 1125 (8th Cir. 2024) (concluding “that there is no need for felony-by-felony litigation regarding the constitutionality of § 922(g)(1)”). The Fourth Circuit has joined the Eighth Circuit in this holding. *United States v. Hunt*, 123 F.4th 697, 708 (4th Cir. 2024) (quoting *Jackson*). The Tenth and the Eleventh Circuits have also found as-applied challenges to § 922(g)(1) to be precluded, holding that their existing precedent affirming the constitutionality of that statute was not affected by this Court’s decisions in *Bruen* or *Rahimi*. See *Vincent v. Bondi*, 127 F.4th 1263 (10th Cir. 2025); *United States v. Dubois*, 139 F.4th 887 (11th Cir. 2025). The Ninth Circuit has also more recently joined these circuits and held that § 922(g)(1) is constitutional as applied to non-violent felons. *United States v. Duarte*, 137 F.4th 743 (9th Cir. 2025) (en banc).

On the other side of the split, the Third, Fifth, and Sixth Circuits have all at least acknowledged the availability of as-applied challenges to § 922(g)(1). See, e.g., *Range v. Att’y Gen. U.S.*, 124 F.4th 218 (3d Cir. 2024) (finding § 922(g)(1) unconstitutional as applied to felon with prior conviction for food-stamp fraud); *United States v. Diaz* 116 F.4th 458, 467-71 & n.4 (5th Cir. 2024) (rejecting a particular defendant’s as-applied challenge to § 922(g)(1) but “not foreclos[ing] future as-applied challenges by defendants with different predicate convictions”); *United States v. Williams*, 113 F.4th 637 (6th Cir. 2024) (holding that *Bruen* and *Rahimi* require courts to consider as-applied challenges to § 922(g)(1)); see also *United States*

v. Watson, 171 F.4th 1012, 1025 (7th Cir. 2025) (upholding § 922(g)(1) as applied to dangerous felons but “reserv[ing] ruling on an as-applied challenge to § 922(g)(1) under the Second Amendment by a felon whose predicate felony offense is not ‘dangerous’”).

Mr. Price urges this Court to grant certiorari to resolve the conflict among the circuits on this issue.

II. There is no historical analogue sufficient to support the constitutional application of 18 U.S.C. § 922(g)(1), which permanently divests tens of millions of people of their right to keep and bear arms based solely upon their status as convicted felons.

The Second Amendment to the U.S. 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.” In *District of Columbia v. Heller*, 554 U.S. 570, 592 (2008), this Court conducted an analysis of the text and history of the Second Amendment and concluded that it “guarantee[s] the individual right to possess and carry weapons in case of confrontation.” The Second Amendment is understood to have codified a pre-existing right. *Id.* at 603. In other words, the Second Amendment did not create the right of the people to bear arms in defense of themselves, their homes, and their country—it instead serves to guarantee that this fundamental right shall not be infringed.

“[T]he American people have considered the handgun to be the quintessential self-defense weapon.” *Id.* at 629. Accordingly, the Second Amendment clearly protects the right of law-abiding American citizens to possess and carry handguns for self-defense. *See Bruen*, 597 U.S. at 10. When the Government is challenged

concerning its regulation of the exercise of this right, it “must affirmatively prove” that such regulation “is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms.” *Id.* at 19. In *Bruen*, this Court set forth a two-step test to be employed in determining whether a government regulation infringes upon an individual’s rights under the Second Amendment. At Step One, a court must consider whether “the Second Amendment’s plain text covers an individual’s conduct” *Id.* at 17. If it does, then “the Constitution presumptively protects that conduct.” *Id.* At Step Two, the Government bears the burden of justifying any regulation of presumptively protected conduct by “demonstrat[ing] that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *Id.* To meet its burden under Step Two, the Government must identify historical firearm restrictions that are analogous to the modern challenged regulation in their “how and why”—which is to say that the Government must show that the modern and historical regulations impose a comparable burden on the right of armed self-defense that is comparably justified. *Id.* at 29.

The first federal statute disqualifying certain violent felons from firearm possession was not enacted until the Federal Firearms Act in 1938, which was 147 years after the Second Amendment was ratified. *United States v. Skoien*, 614 F.3d 638, 640 (7th Cir. 2010) (en banc). Congress did not enact a lifetime ban on firearm possession by all felons until 1961. *Id.* There were simply no laws at or around the time of the Nation’s founding that permanently disarmed people based on their status as felons. *See Kanter v. Barr*, 919 F.3d 437, 451 (7th Cir. 2019) (Barrett, J.,

dissenting) (“Founding-era legislatures did not strip felons of the right to bear arms simply because of their status as felons.”).

In *Jackson*—the case upon which the Eighth Circuit relied in summarily rejecting Mr. Price’s Second Amendment challenge—the court found § 922(g)(1) to be relevantly similar to historical laws that broadly prohibited possession of firearms by certain groups or classes of people, such as non-Anglican Protestants and Catholics in England, Native Americans, Catholics in Maryland, and early Americans who declined to swear an oath of loyalty. *Jackson*, 110 F.4th at 1126-27. The lesson the court drew from such laws was 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” *Id.* at 1127. There are multiple problems with the court’s reliance on such historical laws, the first of which is that “these laws reflect overgeneralized and abhorrent prejudices that would not survive legal challenges today.” *United States v. Duarte*, 137 F.4th 743, 760 (9th Cir. 2025) (en banc). These “group disarmament laws surrounding the founding permitted disarmament if one was a member of a group that was expected to take up arms against the government.” *United States v. Perez-Garcia*, 115 F.4th 1002, 1031 (9th Cir. 2024) (VanDyke, J., dissenting from denial of reh’g en banc). There is no suggestion that the rationale underlying § 922(g)(1)’s disarmament of felons is because they belong to a group likely to take up arms against the government. Accordingly, these historical laws fail *Bruen*’s “why” test and are not relevantly similar analogues to § 922(g)(1).

Furthermore, the Eighth Circuit in *Jackson* “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 denial of reh’g en banc). The “Loyalist” laws discussed by the court “were temporary measures—both in the timing of their enactments and in the extent to which they disarmed individuals.” *Duarte*, 137 F.4th at 794 (VanDyke, J., concurring in part and dissenting in part). These laws were enacted during wartime and did not survive through the Founding era, and “individuals were permitted to regain their right to bear arms upon swearing an oath of allegiance to the Union of disavowing the Crown.” *Id.* Historical surety laws discussed in other cases, though not in *Jackson*, were also markedly temporary in their effect. *See Rahimi*, 602 at 697-99. In other words, the temporary burden imposed by the historical regulations discussed in *Jackson* and elsewhere is not comparable to the permanent burden imposed by § 922(g)(1) on the right of armed self-defense. The court failed to properly apply the “how” part of the *Bruen* test. *See Rahimi*, 602 U.S. at 692 (“Even when a law regulates arms-bearing for a permissible reason, . . . it may not be compatible with the right if it does so to an extent beyond what was done at the founding.”).

This Court’s precedent suggests that the Nation’s tradition of firearm regulation permits temporary disarmament of an individual based on a judicial finding that the person poses a clear and present danger of violence to another. *See Rahimi*, 602 U.S. at 702. But “[t]here is no Founding-era analogue for such a

sweeping and undiscriminating rule” as that imposed by § 922(g)(1), which “deprives tens of millions of Americans of their right to keep and bear arms for the rest of their lives,” and which “does so without a finding of a credible threat to the physical safety of others, or a way to prove that a dispossessed felon no longer poses a danger” *Jackson*, 121 F.4th at 657 (Stras, J., dissenting from denial of reh’g en banc) (internal citations and quotation marks omitted). The constitutionality of the felon-in-possession status is as important as ever, but the circuits have consistently failed to properly apply the analytical framework described in *Bruen* in considering challenges to its application. Intervention by this Court is plainly necessary.

CONCLUSION

For all of the foregoing reasons, Petitioner Richard Joseph Price respectfully requests that this Court grant the petition for a writ of certiorari and accept this case for review.

DATED: this 23rd day of June, 2026.

Respectfully submitted,

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