

No. 26–300

In the Supreme Court of the United States

JACKSON W. HOLLOWAY,
Petitioner,

v.

NICHOLAS W. BROWN,
ATTORNEY GENERAL OF WASHINGTON
Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF WASHINGTON

**BRIEF OF COREY BIAZZO, ET AL.
AS *AMICI CURIAE* IN SUPPORT OF PETITIONER**

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SEPTEMBER MMXXVI

United States Commercial Printing Company • www.uscpc.us • (202) 866-8558

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INTEREST OF *AMICI CURIAE*

Amici curiae Huang Tiange and Corey Biazzo are law-abiding citizens who keep and bear arms for lawful purposes.¹ Biazzo is an appellate advocate, civil trial attorney, and U. S. Navy veteran who submitted an *amicus curiae* brief in *United States v. Hemani*, 608 U. S. 772 (2026). Huang is an incoming law student who, with Biazzo, has submitted *amici curiae* briefs to this Court in *Viramontes v. Cook County*, No. 25–238, *Grant v. Higgins*, No. 25–566, and *Johnson v. Jacobson*, No. 26–255.

Amici have an interest in the faithful application of the method this Court prescribed in *Hemani* and in *Wolford v. Lopez*, 609 U. S. ____ (2026)—both decided after the judgment below—to disarmament triggered by prior convictions. They write to address four matters the petition does not develop: how Washington defines the disarmed class by incorporating a sentencing definition, the defect *Hemani* identified in 18 U. S. C. §922(g)(3); how the prohibition operates when measured by *Wolford*’s inference test and by the features of the burden that *United States v. Rahimi*, 602 U. S. 680 (2024), found decisive; why the court below could not assemble a tradition from analogues it acknowledged might each be insufficient; and why the judgment is final and presents a purely federal question.

¹ No counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund its preparation or submission. No person other than *amici* or their counsel made such a monetary contribution.

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SUMMARY OF ARGUMENT

Washington makes it a felony to own, possess, or control any firearm, anywhere, after a second “prior offense” within seven years, as that term is defined in the State’s DUI sentencing statute. Wash. Rev. Code §9.41.040(2)(a)(i)(D), (2)(b). The disability has no fixed end. After five years, the person may petition a superior court for restoration on the same timetable Washington sets for felonies. §9.41.041(2)(a)(i). The Supreme Court of Washington sustained that prohibition, 5 to 4, on the pleadings, one week before this Court decided *Hemani* and two weeks before it decided *Wolford*. Those decisions show why the judgment below cannot stand.

First, Washington does not define its own class of disarmed persons. It borrows a definition written “[f]or purposes of” DUI sentencing, §46.61.5055(14). That definition reaches reckless-driving and negligent-driving convictions whenever the charge was “originally filed” as DUI or as vehicular homicide or assault, out-of-state equivalents, and, as the court below read it, deferred prosecutions and deferred sentences. App. to Pet. for Cert. 2, n. 1. *Hemani* found it “far from obvious” that §922(g)(3) reached only the categorically dangerous because it borrowed its class from a statute “animated by a variety of other concerns.” 608 U.S., at 792. The same is true here. Indeed, the court below justified disarmament by proof “beyond a reasonable doubt” that a person twice drove under the influence, App. to Pet. for Cert. 13, n. 8, while acknowledging that the statute reaches convictions that establish no such thing, *id.*, at 2, n. 1.

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According to the petition, petitioner’s own first predicate is one of them: a reckless-driving conviction. Pet. 2.

Second, the prohibition fails *Wolford*’s test for drawing an inference from history. Laws against carrying while intoxicated left the sober person’s right to keep arms at home untouched; this statute removes it. The disability lasts at least five times as long as the maximum confinement for the predicate offenses and does not end with any sentence, inverting the reasoning, used in *Rahimi* and below, that disarmament is a lesser burden than the punishment available for the underlying conduct. It is enforced by a felony that itself triggers further state and federal disarmament. And the predicate proceedings—which may predate the firearm consequence and may have occurred in another State—adjudicate nothing about firearms.

Third, the court below acknowledged that none of its three traditions “in isolation might be sufficient.” App. to Pet. for Cert. 12. A collection of analogues must itself be relevantly similar in both “how” and “why.” *Wolford*, 609 U. S., at ___ (slip op., at 8). Because the question is whether a comparable burden is “comparably justified,” *New York State Rifle & Pistol Assn., Inc. v. Bruen*, 597 U. S. 1, 29 (2022), a collection cannot take its purpose from one tradition and its operation from another. The “uniquely modern problem” rationale fails on the Legislature’s own finding, which identifies an age-old concern: “frequent risky alcohol use.” The State disclaimed alcohol dependence as the statute’s trigger yet relied on dependence laws for its tradition. And the categorical-

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disarmament tradition rests largely on laws the State agreed would likely be unconstitutional today.

Finally, the judgment is final under *Cox Broadcasting Corp. v. Cohn*, 420 U. S. 469, 479 (1975), and rests solely on federal law. The question is important and recurring, the case presents it on the pleadings, and a remand would not reach the premise on which the judgment rests. The Court should grant review.

ARGUMENT

I. The decision below cannot be reconciled with *Hemani* and *Wolford*.

Hemani rejected the government’s analogy because the historical laws “targeted different kinds of people, did so for different reasons, and operated in different ways.” 608 U. S., at 795. *Wolford* then restated how a court tests a proffered analogue: the “how” and “why” of the historical and modern laws “must be close enough to enable a court to say: ‘Because this historical law was understood to be compatible with the right codified by the Second Amendment, we can infer that the restriction imposed by the modern law is likewise consistent with that right.’” 609 U. S., at ____ (slip op., at 8).

Petitioner conceded below that the statute “passes the ‘why’ test” and contended that it “fails the ‘how’ test.” App. to Pet. for Cert. 8. That concession does not end the inquiry. “Even when a law regulates arms-bearing for a permissible reason, though, it may not be compatible with the right if it does so to an extent beyond what was done at the founding.” *Rahimi*, 602 U. S., at 692. *Amici* therefore focus on the two

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inquiries that decide this case: whom the statute disarms, and how.

A. Washington defines the disarmed class by borrowing a sentencing definition—the defect *Hemani* identified in §922(g)(3).

Hemani identified a problem with §922(g)(3) that went beyond its historical analogues. The statute “does not define its own category of people to disarm.” 608 U. S., at 792. It incorporates the Controlled Substances Act, a statute “animated by a variety of other concerns,” so “it is far from obvious that 18 U. S. C. §922(g)(3) confines its reach to those who are categorically and unusually dangerous.” *Ibid.*

Washington’s prohibition works the same way. It disarms a person convicted of “any prior offense as defined in RCW 46.61.5055(14) if committed within seven years of a conviction for any other prior offense under RCW 46.61.5055.” Wash. Rev. Code §9.41.040(2)(a)(i)(D). Section 46.61.5055 is the penalty schedule for impaired driving. Its definition of “prior offense” applies, by its terms, “[f]or purposes of this section and RCW 46.61.502 and 46.61.504,” that is, to set escalating penalties for repeat impaired drivers. §46.61.5055(1)–(4), (14). The Legislature wrote that definition to calibrate sentences for driving offenses, not to identify persons who present a special danger of misusing firearms. And because the court below resolved petitioner’s as-applied challenge by asking only whether “the category of conviction” permits disarmament, App. to Pet. for Cert. 7–8, the

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breadth of that borrowed category is precisely what it decided.

The borrowed definition shows it. It includes a conviction for reckless driving, first-degree negligent driving, or reckless endangerment “if the conviction is the result of a charge that was originally filed as” driving or being in physical control while under the influence, vehicular homicide, or vehicular assault. §46.61.5055(14)(a)(xii). The last two need not involve alcohol at all; each may be charged on the theory that the defendant drove recklessly or with disregard for the safety of others. Compare *ibid.* with §46.61.5055(14)(a)(x), (xi) (counting vehicular homicide and assault convictions only when committed, or originally charged as committed, under the influence). The definition also includes “[a]n out-of-state conviction” for conduct that would qualify under several of those provisions, including the reduced offenses. §46.61.5055(14)(a)(xiii). It includes operating a vessel, aircraft, off-road vehicle, or snowmobile while impaired. §46.61.5055(14)(a)(iv), (vi), (viii), (ix). And it includes deferred prosecutions and deferred sentences. §46.61.5055(14)(a)(xiv)–(xvii). The court below confirmed that the firearm prohibition reaches offenses “even if they are later amended to exclude mention of alcohol or drugs or if prosecution or sentencing is deferred.” App. to Pet. for Cert. 2, n. 1.

For a conviction counted under subsection (14)(a)(xii), the fact that ties the offense to alcohol, if anything does, is not an element adjudicated in any proceeding. It is the prosecutor’s original charging decision. A reckless-driving conviction establishes that the defendant drove recklessly; that the charge

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was “originally filed” as DUI establishes only what the State once alleged. Whether that allegation was abandoned in a plea agreement or for want of proof, Washington treats it as enough to make a traffic misdemeanor one of the two predicates for a prohibition on keeping a firearm at home. The Legislature justified the prohibition by the risk of “frequent risky alcohol use,” Laws of 2023, ch. 295, § 1(4), but the definition it borrowed requires no proof of any alcohol use at all.

The opinion below illustrates the mismatch. Answering the dissent, the majority reasoned that “when the State proves beyond a reasonable doubt that a person has driven under the influence, twice within seven years, our legislature may temporarily disarm them to prevent future violent behavior.” App. to Pet. for Cert. 13, n. 8. The statute the court sustained does not require that proof. It reaches convictions that do not establish driving under the influence and dispositions that are not convictions at all. *Id.*, at 2, n. 1. The majority’s description may not fit petitioner either. The court below said he “was convicted of DUI twice within seven years,” *id.*, at 3, but the petition describes his first predicate as “a DUI-related reckless driving conviction in Idaho,” Pet. 2. A reckless-driving conviction counts only through subsections (14)(a)(xii) and (xiii)—that is, only because of how the charge was originally filed. *Hemani* tested the government’s categorical theory by everyone it would reach, not only its most culpable members. See 608 U.S., at 785–787. The court below did the opposite.

Washington’s own statute shows what a targeted predicate looks like. The same subparagraph lists

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misdemeanors defined by conduct toward a victim or with a firearm: domestic violence, stalking, cyberstalking, cyber harassment, harassment, aiming or discharging a firearm, unlawful carrying or handling of a firearm, and second-degree animal cruelty. Wash. Rev. Code §9.41.040(2)(a)(i)(D). And for protection orders, Washington, like §922(g)(8), generally requires “a finding that the person represents a credible threat to the physical safety” of a protected person, an order explicitly prohibiting the use of force, or an order to surrender weapons. §9.41.040(2)(a)(ii)(C) (I)–(II). The “prior offense” predicate is the only one on the list defined by a sentencing statute rather than by the offender’s conduct toward a victim or with a firearm.

B. Measured by *Wolford*’s inference test, the prohibition operates as no proffered analogue did.

Wolford did not leave its inference test abstract. It stated the inference the State’s analogues would have required and asked whether it could be drawn:

“Because it was accepted that prohibiting unauthorized hunting on private land was consistent with the Second Amendment right, can we infer that it is also consistent with that right to ban a person who is lawfully carrying a concealed handgun for self-defense from entering a gas station, coffee shop, grocery store, or other private property open to the public without express and unambiguous consent? The question answers itself.” 609 U. S., at ___ (slip op., at 22).

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The same exercise resolves this case. Because it was accepted that a person could be forbidden to carry a firearm while intoxicated, can we infer that it is also consistent with the right to forbid a sober person from keeping any firearm in his home for five years or more because he twice committed a qualifying driving offense? Four features of Washington’s law show that the answer is no.

1. The prohibition reaches the sober person in the home.

The parties did not meaningfully dispute below that laws regulating the carrying and use of firearms by intoxicated persons have deep roots. App. to Pet. for Cert. 8. Those laws operated at the time and place of the danger: while the person was intoxicated. As Judge Bush observed in *United States v. Goins*, 118 F.4th 794 (CA6 2024), the only founding-era precedent the government cited there for disarmament related to alcohol or drug misuse consisted of “laws that temporarily prohibited gun possession by persons who were presently intoxicated.” *Id.*, at 806 (opinion concurring in part and in the judgment). *Hemani* likewise set aside, as not before it, laws addressed to “those presently intoxicated.” 608 U.S., at 794. The other alcohol-related laws the State cited below regulated places and transactions, such as taverns keeping gunpowder and liquor sales to militiamen. See App. to Pet. for Cert. 28 (Whitener, J., dissenting). None of these laws touched the sober person’s right to keep arms at home.

Washington’s statute does the reverse. It applies without regard to intoxication, to every firearm, and

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in the home, “where the need for defense of self, family, and property is most acute.” *District of Columbia v. Heller*, 554 U. S. 570, 628 (2008). *Wolford* found the anti-poaching analogues deficient in part because they “had little if any impact on the Second Amendment’s central objective: protecting the fundamental right to self-defense.” 609 U. S., at ___ (slip op., at 21). Laws against carrying while drunk had little impact on that objective. This statute eliminates it for the duration of the disability. And where earlier generations addressed a problem “through materially different means, that also could be evidence that a modern regulation is unconstitutional.” *Bruen*, 597 U. S., at 26–27; see Pet. 17.

**2. The prohibition outlasts any
confinement the predicate offenses
could carry, and it does not end
with the sentence.**

Rahimi found §922(g)(8)’s burden consistent with tradition in part because, “like surety bonds of limited duration,” it “was temporary as applied to *Rahimi*.” 602 U. S., at 699. The Court reasoned that “if imprisonment was permissible to respond to the use of guns to threaten the physical safety of others, then the lesser restriction of temporary disarmament that Section 922(g)(8) imposes is also permissible.” *Ibid*. The court below invoked a version of the same reasoning: because founding-era felonies could be punished by death and estate forfeiture, disarmament was a lesser consequence. App. to Pet. for Cert. 11.

Here that reasoning runs backward. A DUI with one prior offense within seven years carries at most

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364 days of confinement. Wash. Rev. Code §46.61.5055(2)(a)(i), (2)(b)(i).² The firearm disability has no fixed end. It persists until a superior court grants a petition that may not be filed until the person has spent five consecutive years in the community without a disqualifying conviction and has completed “all sentencing conditions, ... including all court-ordered treatment,” and then only after the prosecuting attorney verifies eligibility following a State Patrol records check. §9.41.041(2)(a)(i)(I), (2)(b)(ii), (3)(d), (3)(f). That is the same five-year period Washington applies to felonies; other nonfelony offenses require three years. §9.41.041(2)(a)(i)–(ii). The court below called the prohibition “temporary.” App. to Pet. for Cert. 13. But it lasts at least five times as long as the maximum confinement the predicate could carry. It is the greater burden, not the lesser.

The State may respond that a DUI sentence can include a suspended term of up to five years with conditions of probation. §46.61.5055(11)(a). But the firearm prohibition is not one of those conditions. No sentencing judge imposes it or can tailor it; it applies equally to deferred prosecutions, which impose no sentence at all, §46.61.5055(14)(a)(xiv); and it does not lift when probation ends. The five years must be spent “in the community” immediately before a

² Petitioner’s predicate offenses were an Idaho misdemeanor punishable by no more than six months’ imprisonment and a Washington gross misdemeanor. Pet. 2–3, and n. 1. Even a third DUI within seven years carries at most 364 days of confinement. Wash. Rev. Code §46.61.5055(3)(a)(i), (3)(b)(i).

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petition is filed, §9.41.041(2)(a), and the disability continues until a court grants one.

The authority on which the State relied below confirms the point. See App. to Pet. for Cert. 18 (Whitener, J., dissenting). In *Goins*, the Sixth Circuit sustained the disarmament of a repeat DUI offender whose fourth offense was a felony, relying “most importantly” on the fact that he was serving a probationary sentence that expressly forbade possessing a firearm. 118 F.4th, at 796–797, 804–805. The court relied in part on founding-era forfeiture laws that “temporarily disarmed convicts while they completed their sentences,” *id.*, at 801–802, and it cautioned that persons under supervision “may not permanently lose their Second Amendment right,” *id.*, at 804. Judge Bush would have rested on the probation condition alone, doubting that history supports “permanent disarmament because of prior convictions related to drunkenness or the misuse of drugs when, as here, the earlier illegal conduct did not involve a firearm.” *Id.*, at 805 (opinion concurring in part and in the judgment). *Goins* thus approved disarming the defendant “temporarily as a condition of his probation.” *Id.*, at 804–805 (majority opinion). Washington’s prohibition is not a condition of any sentence. It attaches upon conviction and continues until a court grants restoration, regardless of when the sentence ends.

3. The prohibition is enforced by a felony that triggers further disarmament.

Rahimi treated “the penalty” as “another relevant aspect of the burden.” 602 U.S., at 699. *Hemani*,

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too, emphasized that the prosecution exposed Mr. Hemani to up to 15 years in prison and to “disarmament for life” under §922(g)(1). 608 U.S., at 777, 794. Petitioner’s driving convictions “do not trigger any prohibition under federal law.” Pet. 3, n. 2. But a person subject to Washington’s prohibition who keeps a shotgun in his closet commits unlawful possession of a firearm in the second degree, a class C felony, Wash. Rev. Code §9A.040(2)(b), punishable by up to five years of confinement, §9A.20.021(1)(c). That felony conviction would itself disqualify him under Washington law, see §9.41.040(2)(a)(i)(A), and under 18 U.S.C. §922(g)(1), the provision *Hemani* associated with “disarmament for life.” Peaceable possession of a firearm at home, the core of the right *Heller* recognized, thus becomes the gateway to a far broader disability.

4. The predicate proceedings adjudicate nothing about firearms.

Hemani faulted §922(g)(3) because it disarmed “without any pre-deprivation process,” whereas the historical laws “usually provided some form of process before an individual lost any of his liberties.” 608 U.S., at 790–791. The Court distinguished §922(g)(1) and (g)(4) because they “involve some manner of pre-deprivation process.” *Id.*, at 791, n. 6. Washington will say that a conviction supplies that process, and *amici* do not dispute that a conviction matters. But *Hemani* did not hold that any proceeding will do, however unrelated to the deprivation that follows. The historical proceedings it described determined the very condition that justified the restraint: vagrancy,

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habitual drunkenness warranting guardianship or commitment, or the need for a surety. *Id.*, at 790–791. *Rahimi* likewise stressed that the surety and going-armed laws “involved judicial determinations of whether a particular defendant likely would threaten or had threatened another with a weapon.” 602 U. S., at 699.

The proceedings that trigger Washington’s prohibition determine nothing of the kind. Their subject is driving. Under subsection (14)(a)(xii), the conviction need not establish intoxication at all. And the statute requires only that the second offense be committed on or after July 23, 2023. Wash. Rev. Code §9.41.040(2)(a)(i)(D). The first predicate may be a conviction entered before any firearm consequence existed and, under §46.61.5055(14)(a)(xiii), entered by another State’s courts. That is petitioner’s situation: his first predicate was a 2022 Idaho conviction. Pet. 2. A court entering such a judgment had no occasion to consider firearms, and the defendant had no notice that the conviction would later count toward disarmament. The only proceeding that addresses firearms is the restoration petition, which is unavailable for five years and asks nothing about dangerousness: the court “shall grant the petition only if” the petitioner shows elapsed time, completed sentencing conditions, no pending charges, and no other disqualification on a records check. Wash. Rev. Code §9.41.041(2)–(3). Nor can that later proceeding, or a later prosecution for possession, supply what is missing. *Hemani* held that the availability of “a full-dress criminal trial” for violating the ban did not cure the absence of process before the “ ‘temporary disarmament’ ” itself. 608

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U. S., at 791. Washington’s scheme inverts the sequence *Hemani* and *Rahimi* described.

C. The court below could not build a tradition from analogues it acknowledged might each be insufficient.

The court below recognized three traditions—disarming groups deemed dangerous, disarming those convicted of serious crimes, and regulating the combination of alcohol and firearms—and acknowledged that “[n]one of these traditions in isolation might be sufficient.” App. to Pet. for Cert. 12. It held that they sufficed “[t]aken together.” *Ibid.* A government may rely on “a group of analogues.” *Wolford*, 609 U. S., at ___ (slip op., at 7). But the question remains whether the “analogue or collection of analogues is ‘relevantly similar’ to the modern law” in both “how” and “why.” *Id.*, at ___ (slip op., at 8).³

A collection cannot satisfy that test by drawing its purpose from one tradition and its operation from another. The comparison asks whether the modern and

³ *Rahimi* disclaimed any suggestion “that the Second Amendment prohibits the enactment of laws banning the possession of guns by categories of persons thought by a legislature to present a special danger of misuse,” and in the same sentence noted that §922(g)(8) “applies only once a court has found that the defendant ‘represents a credible threat to the physical safety’ of another.” 602 U. S., at 698. *Hemani* repeated the disclaimer but explained that the problem there was “simply that the historical evidence the government presents does not support the categorical restriction it urges.” 608 U. S., at 791, n. 6. The disclaimer describes a question to be answered with history; it is not itself the historical analogue.

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historical laws “impose a comparable burden on the right of armed self-defense and whether that burden is comparably justified.” *Bruen*, 597 U.S., at 29. The justification must attach to the same burden. The intoxication laws supply a purpose close to Washington’s but restricted arms only during intoxication. The serious-crime tradition supplies conviction-based disarmament, but as the Ninth Circuit articulated it, that tradition rests on the legislature’s judgment that conduct is “serious enough to render it a felony.” *United States v. Duarte*, 137 F. 4th 743, 758 (CA9 2025) (en banc) (internal quotation marks omitted), cert. denied, No. 25–425 (Jan. 20, 2026). Washington made the opposite judgment: it classified the predicate offenses as misdemeanors and gross misdemeanors. *Hemani* found that the government’s analogues fell short on every metric and held those shortcomings fatal “[t]aken cumulatively.” 608 U.S., at 783. The court below ran the cumulation in the opposite direction, adding partial resemblances until they equaled a tradition. That approach would convert analogical reasoning into the “regulatory blank check” that *Bruen* disclaimed. 597 U.S., at 30.

Nor does the “uniquely modern problem” of impaired driving, App. to Pet. for Cert. 12, relax the analysis. *Wolford* recognized that a close match is less necessary “when the modern law addresses a situation that could not have arisen when the Second or Fourteenth Amendment was adopted.” 609 U.S., at ____ (slip op., at 8). But what Washington’s law regulates is the possession of firearms, and the Legislature’s stated reason was not the danger of automobiles. It was that “frequent risky alcohol use” is a

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“particularly strong risk factor[] for future violence.” App. to Pet. for Cert. 3 (quoting Laws of 2023, ch. 295, § 1(4)). That concern is as old as the Republic, as the petition explains. Pet. 16–17; see *Hemani*, 608 U. S., at 785 (“culture of copious drinking”); *Goins*, 118 F. 4th, at 806 (opinion of Bush, J.). The automobile is simply the evidence Washington uses to identify alcohol misuse. When a law addresses “a general societal problem that has persisted since the 18th century, the lack of a distinctly similar historical regulation addressing that problem is relevant evidence that the challenged regulation is inconsistent with the Second Amendment.” *Bruen*, 597 U. S., at 26.

The alcohol-dependence tradition fares no better. The court below relied on “a more recent tradition of restricting firearm access for those suffering from alcohol dependence.” App. to Pet. for Cert. 12. In the same paragraph, it accepted the State’s position that the statute “is not triggered by the status of having a chemical dependency.” *Ibid.* The State cannot disclaim dependency as the statute’s trigger while invoking dependency laws as its tradition. And after *Hemani*, the dependency tradition would not help in any event. Every Member of the Court read the habitual-drunkard laws as reaching those whose drinking “rendered them practically incapacitated and incapable of managing their affairs.” 608 U. S., at 785–786; *id.*, at 807 (Alito, J., concurring in judgment). A statute that disclaims any connection to dependency cannot borrow that tradition.

That leaves the tradition of legislative disarmament of groups deemed dangerous, which reached the court below through *Duarte*. App. to Pet. for Cert. 9–

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10. *Amici* do not ask the Court to decide whether legislatures may ever disarm categories of dangerous persons. See *Rahimi*, 602 U. S., at 698. But a court relying on this tradition must identify what legitimate principle survives once the discriminatory purposes of many of its laws are set aside, and explain how that principle reaches a sober person convicted of a traffic offense. The court below did neither. The laws *Duarte* collected included restrictions on Catholics, Native Americans, slaves, and free Black people. 137 F.4th, at 759–760. *Duarte* itself described those laws as reflecting “overgeneralized and abhorrent prejudices that would not survive legal challenges today.” *Id.*, at 760. A concurring judge found “[t]he tradition that emerges from these historical precedents” to be “not particularly impressive.” *Id.*, at 766 (Collins, J., concurring in judgment). And the State agreed below that such laws would likely be unconstitutional today. App. to Pet. for Cert. 23–24 (Whitener, J., dissenting). *Wolford* confirms that a historical law’s acceptance and pedigree bear on the inference a court may draw from it: the Court gave no weight to an 1865 Louisiana statute because it “was neither widespread nor widely accepted,” and it separately rejected that statute, enacted as part of the Black Codes, as a “tainted artifact.” 609 U. S., at ____ (slip op., at 23–24).

D. *Heller*’s reference to “longstanding prohibitions” does not reach this statute.

The court below opened its analysis with *Heller*’s statement that “longstanding prohibitions on the

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possession of firearms by felons and the mentally ill” are presumptively lawful. App. to Pet. for Cert. 1 (quoting 554 U. S., at 626); see *Heller*, 554 U. S., at 626–627, and n. 26. Washington’s prohibition is neither longstanding nor directed at felons. It was enacted in 2023 and reaches only persons whose second qualifying offense was committed on or after July 23, 2023. Wash. Rev. Code §9.41.040(2)(a)(i)(D); Laws of 2023, ch. 295. And its predicates are not felonies. When the Court in *Hemani* declined to cast doubt on §922(g)(1) and (g)(4), it grounded that assurance in the pre-deprivation process those provisions involve. 608 U. S., at 791, n. 6. Nothing in that assurance covers a three-year-old prohibition triggered by misdemeanors.

II. The petition presents a final judgment on a purely federal question that warrants plenary review now.

A. The judgment is final and rests only on federal law.

The petition invokes 28 U. S. C. §1257(a), Pet. 1, but the case reached the Supreme Court of Washington on direct interlocutory review, App. to Pet. for Cert. 4, and the State may contend that the judgment is not final. It is. The court below reversed the trial court’s denial of judgment on the pleadings and remanded “for entry of judgment on the pleadings in favor of the State.” App. to Pet. for Cert. 13. Nothing remains for the trial court but to enter that judgment. The case therefore falls within the first category described in *Cox Broadcasting*: cases “in which there are

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further proceedings ... yet to occur in the state courts but where for one reason or another the federal issue is conclusive or the outcome of further proceedings preordained.” 420 U.S., at 479. “In these circumstances, because the case is for all practical purposes concluded, the judgment of the state court on the federal issue is deemed final.” *Ibid.* *Cox* illustrated that category with *Mills v. Alabama*, 384 U.S. 214 (1966), where a state supreme court reversed a trial court’s ruling on a federal defense and remanded, and this Court took jurisdiction because the appellant “had no defense other than his federal claim.” 420 U.S., at 479. So too here: petitioner’s only claim is federal, and the court below has directed judgment against him.

No independent state ground stands in the way. Petitioner did not rely on the state constitution, and the court below expressly declined to consider whether article I, section 24 of the Washington Constitution “requires a different analysis.” App. to Pet. for Cert. 3, n. 2. The judgment rests on the Second Amendment alone. And because the court resolved the challenge on the pleadings by asking only whether “the category of conviction” permits disarmament, *id.*, at 7–8, no factual dispute stands between the Court and the question presented.

B. The question is important and recurring, and this case presents it cleanly.

The question reaches well beyond Washington. Other jurisdictions attach firearm disabilities to misdemeanor DUI convictions, Pet. 5–6, and most States

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punish repeat DUI as a felony that triggers § 922(g)(1), *id.*, at 6; see App. to Pet. for Cert. 18 (Whitener, J., dissenting). Courts applying *Bruen* to conviction-based disarmament have reached conflicting results. Justice Jackson described decisions on § 922(g)(1) as “a stark example” of inconsistency, contrasting decisions holding it unconstitutional as applied to certain non-violent offenders, *e. g.*, *United States v. Cockerham*, 162 F.4th 500, 504 (CA5 2025); *Range v. Attorney General*, 124 F.4th 218, 232 (CA3 2024) (en banc), with decisions sustaining it categorically, *e. g.*, *Duarte*, 137 F.4th, at 761–762; *United States v. Jackson*, 110 F.4th 1120, 1125, 1129 (CA8 2024). See *Hemani*, 608 U.S., at 803, n. 1 (Jackson, J., concurring). The Supreme Court of Washington itself divided 5 to 4, with four Justices concluding that the statute “is an outlier” that violates the Second Amendment. App. to Pet. for Cert. 32 (Whitener, J., dissenting). And because the court below decided the case on the pleadings as a categorical matter, the question comes to this Court free of factual disputes.

Nor would a remand serve as a substitute for review. The judgment below was entered on June 11, 2026, App. to Pet. for Cert. 1, one week before *Hemani* and two weeks before *Wolford*. But the court below knew that *Hemani* was pending and chose to rule, App. to Pet. for Cert. 10, n. 7, and its holding rests on a premise neither decision addressed: that when a legislature disarms by “category of conviction,” a court asks only whether that category may be disarmed, without examining what the predicate convictions establish. *Id.*, at 7–8. As the petition explains, a remand is unlikely to change the result. Pet. 19–20.

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The decision below conflicts with *Hemani* and *Wolford* now, and the question will recur until this Court answers it.

C. The Court can resolve the case narrowly.

Granting review would not require the Court to decide whether every conviction-based prohibition requires an individualized finding of dangerousness, whether legislatures may ever disarm categories of persons presenting a special danger of misuse, see *Rahimi*, 602 U.S., at 698, or whether §922(g)(1) remains presumptively lawful. The Court could hold that when a State disarms on the basis of prior convictions, the historical analogy must account for what the predicate convictions actually establish rather than the label the legislature attaches to them; and that a prohibition reaching sober possession in the home, and outlasting any confinement the predicate offenses could carry, must be justified by analogues that operated in a comparable way. The judgment below fails on either ground.

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CONCLUSION

This Court should grant certiorari and reverse the judgment of the Supreme Court of Washington.

Respectfully submitted.

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SEPTEMBER 2026

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