

No. \_\_\_\_\_

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IN THE  
SUPREME COURT OF THE UNITED STATES

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TRAMON JAMAL STEWART,  
*Petitioner,*

v.

UNITED STATES OF AMERICA,  
*Respondent.*

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

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PETITION FOR A WRIT OF CERTIORARI

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## QUESTIONS PRESENTED

1. Whether 18 U.S.C. § 922(g)(1) exceeds Congress’s authority under the Commerce Clause, facially and as applied to intrastate firearm possession?<sup>1</sup>

2. Whether 18 U.S.C. § 922(g)(1) is subject to as-applied challenges and violates the Second Amendment as applied to a defendant whose prior felony convictions are nonviolent?<sup>2</sup>

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<sup>1</sup> This Commerce Clause question is pending in *Storey v. United States*, No. 25-7216 (response requested May 26, 2026).

<sup>2</sup> Other petitions presenting Second Amendment questions in § 922(g)(1) prosecutions are pending before this Court, including in *United States v. Hembree*, No. 25-1219 (distributed for conference of September 28, 2026), and *Swan v. United States*, No. 26-26 (petition filed July 2, 2026).

## **PARTIES TO THE PROCEEDING**

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below:

United States of America

Tramon Jamal Stewart.

## **RELATED PROCEEDINGS**

The following is a list of all proceedings in state and federal trial and appellate courts, including proceedings in this Court, that are directly related to the case in this Court:

*United States v. Tramon Jamal Stewart*, No. 24-12447, U.S. Court of Appeals for the Eleventh Circuit, Judgment entered on February 11, 2026, and Rehearing En Banc Denied on April 21, 2026.

*United States v. Tramon Jamal Stewart*, No. 6:23-cr-232-PGB-RMN, U.S. District Court for the Middle District of Florida, Judgment entered on July 15, 2024.

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## **PETITION FOR A WRIT OF CERTIORARI**

Tramon Stewart respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit.

## **ORDER AND OPINION BELOW**

The Eleventh Circuit’s unpublished opinion affirming Mr. Stewart’s conviction and sentence is provided in Petition Appendix A. The Eleventh Circuit’s order denying Mr. Stewart’s timely filed petition for rehearing en banc is provided in Petition Appendix B.

## **JURISDICTION**

The Eleventh Circuit issued its opinion and judgment on February 11, 2026. Petition Appendix 1a, 11a. The Eleventh Circuit entered its order denying rehearing en banc on April 21, 2026. *Id.* at 14a. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254.

## **RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS**

Article I of the United States Constitution states that “Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.” U.S. Const., Art. I, § 8, cl. 3.

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(g)(1) of Title 18 of the United States Code states, “It shall be unlawful for any person . . . who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year . . . to . . . possess in or affecting commerce, any firearm or ammunition.”

### **STATEMENT OF THE CASE**

1. Mr. Stewart’s offense was local. In September 2023, officers with the county sheriff’s office, acting on a state arrest warrant, found Mr. Stewart in an apartment complex parking lot in Sanford, Florida. Mr. Stewart had a firearm in his pocket. Doc. 71 at 12-14; Doc. 54 (PSR) ¶¶ 6-7; Doc. 72 at 19.<sup>3</sup>

2. The federal government prosecuted Mr. Stewart under 18 U.S.C. § 922(g)(1), alleging he possessed the firearm “in and affecting interstate commerce.” Doc. 1 at 1. The felony convictions charged in the indictment were burglary of an unoccupied structure and possessing

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<sup>3</sup> “Doc.” references the district court docket entries. “App. Doc.” references the appellate court docket entries.

a firearm as a felon, *id.*, both Florida convictions, Doc. 54 (PSR) ¶¶ 37-38.<sup>4</sup>

To prosecute him federally for firearm possession in Florida, the government relied on the firearm's manufacture by Glock, Inc., which is located in Georgia. Doc. 36 at 3; Doc. 71 at 14-15. Mr. Stewart pleaded guilty to the § 922(g)(1) offense without a plea agreement. Doc. 71 at 16. The district court imposed an 87-month sentence. Doc. 62 at 1-2.

3. On appeal, Mr. Stewart challenged his conviction on the grounds that § 922(g)(1) plainly exceeds Congress's Commerce Clause authority and violates the Second Amendment, acknowledging that Eleventh Circuit precedent foreclosed both issues. App. Docs. 17, 32. The Eleventh Circuit affirmed. *See* Petition Appendix A.

As to the Commerce Clause challenge, the Eleventh Circuit followed its binding precedent upholding § 922(g)(1) as facially constitutional because the statute "contains an express jurisdictional requirement: that the felon possess any firearm 'in or affecting commerce.'" *Id.* at 2a (citing *United States v. Jordan*, 635 F.3d 1181, 1189-90 (11th Cir. 2011)). The appellate court also applied its precedent

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<sup>4</sup> Florida thus has its own criminal prohibition on felon-firearm possession. Fla. Stat. § 790.23.

concluding that § 922(g)(1) is constitutional as applied “to a defendant whose firearm has at least a ‘minimal nexus’ to interstate commerce, such as when the firearm was manufactured in a different state.” *Id.* at 2a-3a (citing *Jordan*, 635 F.3d at 1189-90).

To reject Mr. Stewart’s Second Amendment challenge, the Eleventh Circuit relied on *United States v. Dubois*, 139 F.4th 887 (11th Cir. 2025), *cert. denied*, No. 25-6281, 2026 WL 135685 (Jan. 20, 2026). *Id.* at 3a. In *Dubois*, 139 F.3d at 893-94, the Eleventh Circuit concluded *United States v. Rozier*, 598 F.3d 768 (11th Cir. 2010), remained binding precedent following *United States v. Rahimi*, 602 U.S. 680 (2025). As a result, in the Eleventh Circuit, “felons are categorically ‘disqualified’ from exercising their Second Amendment right.” *Id.* at 893 (quoting *Rozier*, 598 F.3d at 770-71).

On March 4, 2026, Mr. Stewart timely petitioned for rehearing en banc on the Commerce Clause issue.<sup>5</sup> The Eleventh Circuit denied Mr. Stewart’s petition. Petition Appendix B.

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<sup>5</sup> The Eleventh Circuit denied rehearing en banc in *Dubois* on September 2, 2025.

## REASONS FOR GRANTING THE WRIT

### I.

**This Court’s review is warranted on the important and recurring question of whether Congress’s Commerce Clause authority empowers it to criminalize intrastate firearm possession in 18 U.S.C. § 922(g)(1)**

Congress has made it criminal for nine categories of individuals, including felons, to possess firearms. 18 U.S.C. § 922(g)(1)-(9). The time for reviewing the constitutionality of § 922(g) is ripe. *See United States v. Hemani*, 146 S. Ct. 1677, 1695 (2026) (Thomas, J., concurring) (“Section 922(g) appears to exceed Congress’s powers under the Commerce Clause.”);<sup>6</sup> *see also United States v. Bonner*, 159 F.4th 338, 340-43 (5th Cir. 2025) (Willett, J., joined by Duncan, J., concurring) (“harbor[ing] doubts that § 922(g)(1) is constitutional” under Congress’s Commerce Clause authority); *United States v. Hembree*, 165 F.4th 909, 919-21 (5th Cir. 2026) (Willett, J., concurring) (reiterating openness “to reconsidering whether § 922(g)(1) truly falls within Congress’s

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<sup>6</sup> This petition presents the same Commerce Clause question as *Storey v. United States*, No. 25-7216 (response requested May 26, 2026). *See Hemani*, 146 S. Ct. at 1696 (citing *inter alia United States v. Storey*, 571 F. Supp. 3d 1296, 1298 (M.D. Fla. 2021) (Mizelle, J.)).

enumerated powers”), *pet. for cert. filed*, No. 25-1219 (presenting Second Amendment question).<sup>7</sup>

Section 922(g) is one of the most commonly prosecuted federal offenses. In fiscal year 2025, of the more than 66,000 cases reported to the Sentencing Commission, over 7,200 (or 10.9%) involved convictions under § 922(g). See United States Sentencing Commission, Quick Facts: 18 U.S.C. § 922(g) Firearms Offenses Fiscal Year 2025, *available at* <https://www.ussc.gov/research/quick-facts/section-922g-firearms> (last visited July 20, 2026). Of those, 89% were § 922(g)(1) convictions. *Id.*

Yet, under our Constitution, Congress lacks plenary power to “punish felonies generally.” *Bonner*, 159 F.4th at 340-41 & n.6 (quoting *Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264, 428 (1821)). General police power is reserved to the states, leaving Congress with only those powers enumerated in the Constitution. *Id.* at 340-41 & n.3 (citing *United States v. Morrison*, 529 U.S. 598, 607 (2000)); *United States v. Lopez*, 514 U.S. 549, 566-67 (1995).

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<sup>7</sup> On July 20, 2026, the date of this petition, the Fifth Circuit granted rehearing en banc on a petition raising a Commerce Clause challenge to § 922(g)(1). See *United States v. Squire*, 177 F.4th 614 (5th Cir. 2026), *reh’g en banc granted*, No. 25-30324.

Congress purports to rely on its Commerce Clause authority to criminalize firearm possession. See 18 U.S.C. § 922(g) (proscribing possession “in or affecting commerce”).<sup>8</sup> But possession of a firearm by a felon, just like possession of a firearm in a school zone, “has nothing to do with ‘commerce’ or any sort of economic enterprise, however broadly one might define those terms.” *Lopez*, 514 U.S. at 561; *id.* at 551-52 (affirming Fifth Circuit’s decision concluding that 18 U.S.C. § 922(q), which proscribed possessing a firearm in a school zone, exceeds Congress’s Commerce Clause authority); see *Hemani*, 146 S. Ct. at 1695-96 (Thomas, J., concurring) (“The mere possession of a firearm that long ago crossed state lines is not ‘economic activity’ in any sense”). Nor can § 922(g)(1) be defended by aggregating the effect of all felon firearm possession. *Hemani*, 146 S. Ct. at 1696 (Thomas, J., concurring) (citing *Morrison*, 529 U.S. at 617); see *Bonner*, 159 F.4th at 342 & n.18 (“[A]ggregation is ordinarily appropriate only when the underlying activity is economic—and firearm possession is not”) (citing *Lopez*, 514 U.S. at 567).

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<sup>8</sup> Congress has 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, cl. 3.

Mr. Stewart and other § 922(g) defendants' convictions instead rest on the theory that Congress can criminalize the possession of a firearm so long as the firearm crossed state lines at some point in the past. See *Hemani*, 146 S. Ct. at 1694-95 (Thomas, J., concurring); *Jordan*, 635 F.3d at 1189-90 (citing *United States v. Dupree*, 258 F.3d 1258, 1260 (11th Cir. 2001)). This theory, however, does not accord with the original meaning of the Commerce Clause. See *Hemani*, 146 S. Ct. at 1695 (Thomas, J., concurring).

Nor does this theory provide any real limit to Congress's Commerce Clause authority. As several Fifth Circuit judges have written:

If it's enough that some object (or component of an object) at some unknown (and perhaps unknowable) point in time traveled across state lines to confer federal jurisdiction, it's hard to imagine anything that would remain outside the federal government's commerce power. There is no plausible reading of the Commerce Clause, as originally understood by our Founders, that could possibly give the federal government such reach.

*United States v. Seekins*, 52 F.4th 988, 990 (5th Cir. 2022) (Ho, J., joined by Smith, Engelhardt, JJ., dissenting from denial of rehearing en banc) (citing *Lopez*, 514 U.S. at 585-87 (Thomas, J., concurring)).<sup>9</sup>

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<sup>9</sup> In further support, the Fifth Circuit judges cited Randy E. Barnett, *The Original Meaning of the Commerce Clause*, 68 U. Chi. L. Rev. 101, 146 (2001) ("The most persuasive evidence of original meaning . . .

The theory that Congress can criminalize an item's possession based on its place of manufacture originates not from the Commerce's text or history but from lower appellate courts' misapplication of this Court's decisions. *See Hemani*, 146 S. Ct. at 1696 (Thomas, J., concurring). Some court have followed *Scarborough v. United States*, 431 U.S. 563 (1977). *See, e.g., United States v. Nichols*, 124 F.3d 1265, 1266 & n.1 (11th Cir. 1997); *United States v. Rawls*, 85 F.3d 240, 242-43 (5th Cir. 1996) (collecting cases); *see also Bonner*, 159 F.4th at 343 ("Our reliance on *Scarborough* combines these fears: our decisions now expand federal power not by remote implication from the constitutional text, but by remote implication from our own precedents").

In *Scarborough*, this Court construed § 922(g)(1)'s predecessor and concluded that there was no indication Congress "intended to require any more than the minimal nexus that the firearm have been, at some time,

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strongly supports Justice Thomas's and the Progressive Era Supreme Court's narrow interpretation of the Congress's power [under the Commerce Clause.]); William J. Seidleck, *Originalism and the General Concurrence: How Originalists Can Accommodate Entrenched Precedents While Reining in Commerce Clause Doctrine*, 3 U. Pa. J. L. & Pub. Affs. 263, 269 (2018) ("The founding generation understood the term 'commerce' to mean only 'trade or exchange of goods.' . . . The writings of the framers and the purpose behind the creation of the Commerce Clause also confirm its intended narrow scope."). *Id.* at 990-91.

in interstate commerce.” 431 U.S. at 575. But Congress’s statutory intention and its constitutional authority are different questions. *Scarborough*, which pre-dated *Lopez*, dealt only with the former, statutory interpretation question. *Hemani*, 146 S. Ct. at 1697 (Thomas, J., concurring); see *Seekins*, 52 F.4th at 991 (opining that “our reliance on *Scarborough* was erroneous” because “the Court’s holding in *Scarborough* was statutory, not constitutional” and “*Scarborough* pre-dates *Lopez*”); *Bonner*, 159 F.4th at 342 & n.22 (“*Scarborough* addresses only questions of statutory construction, and does not expressly purport to resolve any constitutional issue.”) (citation and internal quotation marks omitted).

Some courts have also pointed to § 922(g)’s purported “jurisdictional hook”—“in or affecting commerce”—to conclude the statute passes constitutional muster under *Lopez* and *Morrison*. *Hemani*, 146 S. Ct. at 1697 (Thomas, J., concurring) (collecting cases); see *Jordan*, 635 F.3d at 1189-90. *Lopez*, however, “considered a jurisdictional hook helpful only if it ‘would ensure, through case-by-case inquiry, that the firearm possession in question affects interstate commerce.’” *Hemani*, 146 S. Ct. at 1698 (Thomas, J., concurring) (quoting *Lopez*, 514 U.S. at 561). Section 922(g)’s purported “jurisdictional hook” fails in this regard

because it does not require that a defendant's firearm possession affect interstate commerce. *Id.*

Mr. Stewart's case presents an excellent opportunity to resolve this important constitutional question. His offense, possession, was local and non-economic; he possessed a firearm in his pocket while standing in an apartment parking lot. But § 922(g)(1) was applied to him based on the firearm's manufacture, at some point in the past, outside of Florida. Petition Appendix 2a-3a (citing *Jordan*, 635 F.3d at 1189-90). The Eleventh Circuit affirmed his conviction based on its settled precedent and denied rehearing en banc.<sup>10</sup>

Accordingly, only this Court can resolve this important constitutional question. This Court should grant certiorari on this issue, which affects thousands of criminal defendants, to ensure that Congress's Commerce Clause power is "read carefully to avoid creating a general federal authority akin to the police power." *Seekins*, 52 F.4th at 990

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<sup>10</sup> The Eleventh Circuit affirmed on plain-error review but, given its precedent, the district court could not have revisited the legal question of § 922(g)(1)'s constitutionality in any case. *See id.* at 3a; *Jordan*, 635 F.3d at 1190 (maintaining its Commerce Clause precedents because they "have not been overruled by the *en banc* Court or by the Supreme Court").

(quoting *NFIB v. Sebelius*, 567 U.S. 519, 536 (2012)) (internal quotation marks omitted).

## II.

**This Court’s review is needed to resolve the circuit split on whether § 922(g)(1) is subject to as-applied challenges and, if so, whether the statute violates the Second Amendment when applied to an individual whose prior convictions are nonviolent**

In *Hemani*, this Court held that § 922(g)(3) is unconstitutional as applied to the petitioner who “uses marijuana a few times a week.” 146 S. Ct. at 1684; *id.* at 1687 (disagreeing with government’s argument that § 922(g)(3) is constitutional “as applied in this case and others”). In *Rahimi*, this Court held that § 922(g)(8), “[a]s applied to the facts of this case,” was consistent with the Second Amendment. 602 U.S. at 690. The question presented here is whether the neighboring provision in § 922(g)(1), banning felons from possessing firearms, is similarly subject to as-applied Second Amendment challenges.

This question divides the lower courts. The Eleventh Circuit, and other circuits, have concluded that “felons are categorically ‘disqualified’ from exercising their Second

Amendment right.” *Dubois*, 139 F.4th at 893 (quoting *Rozier*, 598 F.3d at 770-71); *see Hemani*, 146 S. Ct. at 1698 n.1 (Jackson, J., with whom Sotomayor, J., joins, concurring) (citing *United States v. Duarte*, 137 F.4th 743, 761-62 (9th Cir. 2025) (categorically affirming the constitutionality of § 922(g)(1) as applied to nonviolent felons); *United States v. Jackson*, 110 F.4th 1120, 1125, 1129 (8th Cir. 2024) (similar)). Thus, in the Eleventh Circuit there is no avenue to challenge whether an individual’s prosecution under § 922(g)(1) violates the Second Amendment.

Other circuits, by contrast, have sustained as-applied challenges to § 922(g)(1). *See Hemani*, 146 S. Ct. at 1698 n.1 (Jackson, J., with whom Sotomayor, J., joins, concurring) (citing *United States v. Cockerham*, 162 F.4th 500, 504 (5th Cir. 2025) (holding § 922(g)(1) is unconstitutional as applied to a defendant whose prior conviction was for failing to pay child support); *Range v. Att’y Gen.*, 124 F.4th 218, 232 (3d Cir. 2024) (en banc) (same, where the prior conviction was for making a false statement to obtain food stamps)). Recently, the Fifth Circuit held that § 922(g)(1) is unconstitutional as applied to a defendant whose prior

conviction was simple possession of methamphetamine. *Hembree*, 165 F.4th at 910.

In *Hembree*, the Solicitor General has requested that this Court hold the petition pending the resolution of *Hemani* and, if appropriate, remand for further consideration in light of the Court's decision in that case. Petition for a Writ of Certiorari at 3-4, No. 25-1219. In *Hemani*, however, this Court explained its decision was a "narrow one" and did not address § 922(g)(1)'s "provision disarming individuals convicted of felonies (often including drug-related ones)." 146 S. Ct. at 1693.

The circuit split on § 922(g)(1) accordingly persists. *See id.* at 1698 n.1 (Jackson, J., joined by Sotomayor, J., concurring). Mr. Stewart's § 922(g)(1) conviction rests on nonviolent prior convictions (burglary of an unoccupied structure and felon-firearm possession). Doc. 1. He therefore respectfully requests this Court's review on the question presented or that his petition be held should the Court grant certiorari in *Hembree* or another case to resolve this circuit split.

## CONCLUSION

For the foregoing reasons, the petition should be granted.

Respectfully submitted,

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