

No. 26-5131

IN THE
SUPREME COURT OF THE UNITED STATES

TRAMON JAMAL STEWART,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

REPLY BRIEF FOR PETITIONER

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TABLE OF CONTENTS

Table of Authorities	ii
Reply Brief for Petitioner	1
Conclusion.....	3

TABLE OF AUTHORITIES

Cases	Page(s)
<i>United States v. Hemani</i> , 608 U.S. 772 (2026)	1
<i>United States v. Lopez</i> , 514 U.S. 549 (1995)	2
<i>United States v. Walker</i> , 59 F.3d 1196 (11th Cir. 1995)	2
Statutes	
18 U.S.C. § 922(g)	1, 3
18 U.S.C. § 922(q)(1)(A)	2

REPLY BRIEF FOR PETITIONER

Tramon Stewart has presented Commerce Clause and Second Amendment challenges to 18 U.S.C. § 922(g)(1). The government has offered no defense of § 922(g)(1)’s constitutionality on either basis, confirming the need for this Court’s review.

Question Presented 1: Commerce Clause. Whether § 922(g)(1)—one of the most frequently prosecuted federal offenses—exceeds Congress’s Commerce Clause authority is an important question. Pet. 5-6. The government fails to acknowledge Justice Thomas’s considered opinion in *United States v. Hemani*, 608 U.S. 772, 795-802 (2026) (Thomas, J., concurring), when it claims this question “merits no further review.” Memo of US 1.

Pointing to the pending Fifth Circuit en banc proceeding, the government notes that, “at this time,” there is no circuit split. *Id.* at 2 n.1. As Justice Thomas has observed, however, “the courts of appeals have misapprehended [this Court’s] precedents.” *Hemani*, 608 U.S. at 799 (Thomas, J., concurring). Only this Court can ultimately resolve the correct application of its decisions. Although the en banc Fifth Circuit may opine on how to reconcile this Court’s precedents, the need for this Court’s review will remain. Moreover, the Eleventh Circuit denied Mr.

Stewart’s request to rehear this question en banc. Pet. App. 14a. He should not be denied further review on the constitutionality of his statute of conviction simply because his federal case arose in Florida rather than in Louisiana.

Mr. Stewart’s case is a good vehicle. His offense was local and non-economic; he possessed a firearm in his pocket while standing in an apartment parking lot. Pet. 11. Notably, unlike in other recent cases before this Court, the government makes no claim that Mr. Stewart’s firearm possession had any connection to commerce. Memo of US 1-3. The government instead emphasizes the standard of review. *Id.* at 3. But this Court’s decision on whether Congress lacks the authority to criminalize intrastate firearm possession—a question of law—would be outcome determinative on any standard of review. *See, e.g., United States v. Walker*, 59 F.3d 1196, 1197-98 (11th Cir. 1995) (reversing 18 U.S.C. § 922(q)(1)(A) conviction following *United States v. Lopez*, 514 U.S. 549 (1995), stating, “We can think of no plainer error than to allow a conviction to stand under a statute which Congress was without power to enact.”).

Question Presented 2: Second Amendment. The government has waived its response on this question and therefore offers no defense of

the Eleventh Circuit's decision that felons are categorically disqualified from exercising their Second Amendment rights. Pet. 12-13. The circuits remain split on whether defendants may bring as-applied challenges to their § 922(g)(1) convictions on Second Amendment grounds. *Id.* at 12-14. Because Mr. Stewart's § 922(g)(1) conviction rests on prior convictions that are nonviolent, he maintains his request for this Court's review. *Id.* at 14.

CONCLUSION

Mr. Stewart requests that this Court grant his petition.

Respectfully submitted,

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