

In the
Supreme Court of the United States

George Dennis Moore, III,

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

REPLY BRIEF FOR PETITIONER

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REPLY BRIEF FOR PETITIONER

I. This Court should grant the petition to resolve whether and when 18 U.S.C. § 922(g)(1) comports with the Second Amendment.

The government offers no response to Petitioner’s argument that the Court should grant the petition to resolve whether and when § 922(g)(1) comports with the Second Amendment. The Court should grant the petition for the reasons previously explained. *See* Petition at 5–13.

II. This Court should grant the petition to address whether and when § 922(g)(1) comports with the Commerce Clause.

The government’s response to the Commerce Clause challenge illustrates the need for this Court’s review. As the government points out, the courts of appeals have relied on this Court’s precedent to continue to find § 922(g)(1) constitutional. *See* Memorandum for the United States in Opposition (“Memorandum”) at 2. That reliance “misapprehend[s]” this Court’s precedent “in two ways.” *United States v. Hemani*, 608 U.S. 772, 799 (2026) (Thomas, J., concurring). Some courts of appeals “have thought that *Scarborough*’s statutory holding required them to uphold § 922(g)’s constitutionality.” *Id.* Other courts of appeals “have concluded that the presence of a so-called ‘jurisdictional hook’ in § 922(g) renders the statute constitutional.” *Id.* This Court’s review is needed to correct both errors.

The government suggests that this case is a poor vehicle. It argues that, in addition to the firearm supplying the factual basis for the charge, *see* ROA.759, Moore possessed another firearm found in a bag with marijuana, crack cocaine, cash, and a scale, *see* Memorandum at 3 (citing the Presentence Investigation Report).

The government cannot rely on these facts because it did not prove them beyond a reasonable doubt.¹ *See Taylor v. United States*, 579 U.S. 301, 308 (2016) (“There is no question that the Government in a Hobbs Act prosecution must prove beyond a reasonable doubt that the defendant engaged in conduct that satisfies the Act’s commerce element.”). Instead, even after Moore put the government on notice of his Commerce Clause challenge, the government’s proof on the commerce element was that Moore possessed a firearm in Mississippi that was manufactured in Austria. *See* ROA.760; *see also* ROA.736 (district court explaining to Moore that to obtain a conviction under § 922(g)(1), the government needed to prove “that the firearm possessed was in or affecting commerce; that is, before you possessed the firearm, that firearm had traveled at some time from one state to another state or from some foreign country to any state in the United States”). Granting the petition would allow this Court to resolve whether that fact is enough to support a constitutional conviction under § 922(g)(1).

¹ During the change-of-plea hearing, the prosecutor said the government’s evidence would show that Moore possessed a Glock firearm. ROA.759. When Moore explained to the district court what happened, he admitted to also possessing a Smith & Wesson firearm. ROA.764–65. Moore made no admission about any contraband allegedly found with the firearm. *See* ROA.764–65.

CONCLUSION

Petitioner George Dennis Moore, III, respectfully requests that this Court grant the petition for a writ of certiorari. Alternatively, the Court should grant review in one or more cases presenting similar questions and hold petitioner's case pending disposition of that case.

Respectfully submitted this 1st day of October, 2026.

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