

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

PEDRO ANTUNEZ-GALARZA,
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

PETITION FOR A WRIT OF CERTIORARI

Charles L. Pritchard, Jr.
Federal Public Defender
Middle District of Florida

M. Allison Guagliardo
Assistant Federal Defender
400 N. Tampa Street, Suite 2700
Tampa, FL 33602
Telephone: (813) 228-2715
E-mail: allison_guagliardo@fd.org
Counsel of Record for Petitioner

QUESTION PRESENTED

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

¹ This Commerce Clause question is pending in *Storey v. United States*, No. 25-7216 (response requested May 26, 2026), and *Stewart v. United States*, No. 26-5131 (filed July 20, 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

Pedro Antunez-Galarza.

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. Pedro Antunez-Galarza, No. 25-11593, U.S. Court of Appeals for the Eleventh Circuit, Judgment entered on March 3, 2026, and Rehearing En Banc Denied on April 27, 2026.

United States v. Pedro Antunez-Galarza, No. 8:24-cr-397-RAL-SPF, U.S. District Court for the Middle District of Florida, Judgment entered on May 2, 2025.

TABLE OF CONTENTS

Question Presented	i
Parties to the Proceeding and Related Proceedings.....	ii
Table of Contents	iii
Table of Authorities.....	iv
Petition for a Writ of Certiorari	1
Order and Opinion Below	1
Jurisdiction.....	1
Relevant Constitutional and Statutory Provisions	1
Statement of the Case	2
Reasons for Granting the Writ.....	4
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)	4
Conclusion	11
Petition Appendix	

TABLE OF AUTHORITIES

Cases	Page(s)
<i>Cohens v. Virginia</i> , 1 9 U.S. (6 Wheat.) 264 (1821)	5
<i>NFIB v. Sebelius</i> , 567 U.S. 519 (2012)	10-11
<i>Scarborough v. United States</i> , 431 U.S. 563 (1977)	8-9
<i>United States v. Bonner</i> , 159 F.4th 338 (5th Cir. 2025)	4-6, 8-9
<i>United States v. Edwards</i> , 142 F.4th 1270 (11th Cir. 2025)	3, 7, 9-10
<i>United States v. Hemani</i> , 146 S. Ct. 1677 (2026)	4, 6-9
<i>United States v. Hembree</i> , 165 F.4th 909 (5th Cir. 2026)	4
<i>United States v. Lopez</i> , 514 U.S. 549 (1995)	5-7, 9
<i>United States v. Morrison</i> , 529 U.S. 598 (2000)	5-6, 9
<i>United States v. Nichols</i> , 124 F.3d 1265 (11th Cir. 1997)	8
<i>United States v. Rawls</i> , 85 F.3d 240 (5th Cir. 1996)	8
<i>United States v. Scott</i> , 263 F.3d 1270 (11th Cir. 2001)	3

<i>United States v. Seekins</i> , 52 F.4th 988 (5th Cir. 2022)	7, 9-10
<i>United States v. Squire</i> , 177 F.4th 614 (5th Cir. 2026)	5
<i>United States v. Storey</i> , 571 F. Supp. 3d 1296 (M.D. Fla. 2021)	i, 4
<i>United States v. White</i> , 837 F.3d 1225 (11th Cir. 2016)	10

Constitutional Provisions

U.S. Const., Art. I, § 8, cl. 3	1, 6
---------------------------------------	------

Statutes

18 U.S.C. § 922(g)	2, 4, 6
18 U.S.C. § 922(q)	6
28 U.S.C. § 1254	1

Other Authorities

Randy E. Barnett, <i>The Original Meaning of the Commerce Clause</i> , 68 U. Chi. L. Rev. 101 (2001)	7
United States Sentencing Commission, Quick Facts: 18 U.S.C. § 922(g) Firearms Offenses Fiscal Year 2025	5
William J. Seidleck, <i>Originalism and the General Concurrence: How Originalists Can Accommodate Entrenched Precedents While Reining in Commerce Clause Doctrine</i> , 3 U. Pa. J. L. & Pub. Affs. 263 (2018)	8

PETITION FOR A WRIT OF CERTIORARI

Pedro Antunez-Galarza 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. Antunez-Galarza’s conviction and sentence is provided in Petition Appendix A. The Eleventh Circuit’s order denying Mr. Antunez-Galarza’s timely filed petition for rehearing en banc is provided in Petition Appendix B.

JURISDICTION

The Eleventh Circuit issued its opinion and judgment on March 3, 2026. Petition Appendix 1a, 4a. The Eleventh Circuit entered its order denying rehearing en banc on April 27, 2026. *Id.* at 7a. 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.

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. Antunez-Galarza’s offense was local. In July 2024, deputies with the county sheriff’s office stopped Mr. Antunez-Galarza while he was riding a bicycle late in the evening without any lights on in Manatee County, Florida. Mr. Antunez-Galarza had a loaded handgun. Doc. 60 at 22, 24-25.²

2. The federal government prosecuted Mr. Antunez-Galarza for this firearm and ammunition possession under 18 U.S.C. § 922(g)(1), alleging that he, a felon, possessed the firearm and ammunition “in and affecting interstate commerce.” Doc. 26 at 2.³ To prosecute him federally for this possession in Florida, the government relied on the manufacture of the firearm and ammunition outside of Florida, and the

² “Doc.” references the district court docket entries. “App. Doc.” references the appellate court docket entries.

³ Mr. Antunez-Galarza was also charged with other offenses (illegal reentry, possession of a false permanent resident card, and possession of a false social security card) that are not at issue here. Doc. 26.

inference that they had traveled in interstate commerce before his possession. Doc. 38 at 5; Doc. 60 at 23.

Mr. Antunez-Galarza pleaded guilty to the § 922(g) and other offenses without a plea agreement. Doc. 60 at 25-26. The § 922(g) offense resulted in the highest sentencing guidelines calculation. Doc. 48 (PSR) ¶¶ 30-35. The district court imposed a 46-month sentence. Doc. 51 at 1-3.

3. On appeal, Mr. Antunez-Galarza challenged his § 922(g)(1) conviction on the ground that the statute plainly exceeds Congress's Commerce Clause authority, acknowledging binding circuit precedent to the contrary. App. Docs. 21, 30. The Eleventh Circuit affirmed "[b]ecause his claims are foreclosed by precedent." Petition Appendix 2a-3a (citing *United States v. Edwards*, 142 F.4th 1270, 1285 (11th Cir. 2025), *cert. denied*, 146 S. Ct. 903 (2025); *United States v. Scott*, 263 F.3d 1270, 1274 (11th Cir. 2001)).

On March 24, 2026, Mr. Antunez-Galarza timely petitioned for rehearing en banc. The Eleventh Circuit denied his petition. Petition Appendix B.

REASONS FOR GRANTING THE WRIT

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.”);⁴ *see also United States v. Bonner*, 159 F.4th 338, 340-43 (5th Cir. 2025) (Willett, J., joined by Duncan, J., concurring (“*Bonner*”)) (“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 (“*Hembree*”)) (reiterating openness “to reconsidering whether § 922(g)(1) truly falls

⁴ 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*, 571F. Supp. 3d 1296, 1298 (M.D. Fla. 2021) (Mizelle, J.)), and *Stewart v. United States*, No. 26-5131 (filed July 20, 2026).

within Congress’s enumerated powers”), *pet. for cert. filed*, No. 25-1219 (presenting Second Amendment question).⁵

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 23, 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).

⁵ On July 20, 2026, 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”).⁶ 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).

⁶ 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. Antunez-Galarza 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); *Edwards*, 142 F.4th at 1285. 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 (“*Seekins*”)) (citing *Lopez*, 514 U.S. at 585-87 (Thomas, J., concurring)).⁷

⁷ 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 . . . strongly supports Justice Thomas’s and the Progressive Era Supreme Court’s narrow interpretation of the Congress’s power [under the

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, in interstate commerce." 431 U.S. at 575. But Congress's statutory

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.

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 *Edwards*, 142 F.4th at 1285. *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. Antunez-Galarza's case presents an excellent opportunity to resolve this important constitutional question. His offense, possession, was local and non-economic; he possessed a firearm and ammunition while riding a bicycle in Florida. But § 922(g)(1) was applied to him based on the firearm and ammunition's manufacture, at some point in the past, outside of Florida. The Eleventh Circuit affirmed his conviction based on its settled precedent and denied rehearing en banc. Petition Appendix 2a-3a (citing *Edwards*, 142 F.4th at 1285); *id.* at 7a.⁸

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

⁸ 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 (citing *United States v. White*, 837 F.3d 1225, 1229 (11th Cir. 2016) ("[W]e are bound to follow a prior binding precedent unless and until it is overruled by this court en banc or by the Supreme Court." (quotations omitted))).

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

CONCLUSION

For the foregoing reasons, the petition should be granted.

Respectfully submitted,

Charles L. Pritchard, Jr.
Federal Public Defender
Middle District of Florida

/s/ M. Allison Guagliardo
M. Allison Guagliardo
Florida Bar No. 0800031
Assistant Federal Defender
400 North Tampa Street, Suite 2700
Tampa, Florida 33602
Telephone: (813) 228-2715
Email: allison_guagliardo@fd.org
Counsel of Record for Petitioner