

No. 26-5243

IN THE
SUPREME COURT OF THE UNITED STATES

ALBERT AYALA,
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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REPLY BRIEF FOR PETITIONER

Albert Ayala has presented a Commerce Clause challenge to 18 U.S.C. § 922(g)(1), his statute of conviction. Pet. i, 4-11. Whether § 922(g)(1)—one of the most frequently prosecuted federal offenses—exceeds Congress’s Commerce Clause authority is an important question. *Id.* at 4-5. 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.

Mr. Ayala’s case is an excellent opportunity to resolve the important constitutional question. Pet. 10. His offense, possession,

was local and non-economic; he possessed a firearm and ammunition while driving a car in Orlando, Florida. *Id.* at 2, 10.

The government posits that Mr. Ayala “did more than just possess a firearm that crossed state lines at some point in the past” because he possessed the firearm while driving on an interstate. Memo of US 3. But the government makes no claim that Mr. Ayala, who was in central Florida, had crossed state lines with the firearm. *Id.* at 3-4; *cf. United States v. Mixon*, --- F.4th ----, 2026 WL 3026118, at *3 (6th Cir. Oct. 8, 2026) (affirming where the defendant “himself transported the gun and the carjacked vehicle over state lines while fleeing law enforcement”).

Nor, moreover, can the government defend § 922(g)(1) as a regulation of “vehicles” that are in “interstate commerce.” Memo of US 4 (citing *United States v. Lopez*, 514 U.S. 549, 558 (1995)) (internal quotation marks omitted). Section 922(g)(1) plainly regulates firearm possession, not vehicles. Pet. 2. Because this Court assesses a statute’s constitutionality based on the conduct it regulates, the government has provided no defense of § 922(g)(1)’s constitutionality. *See Lopez*, 514 U.S. at 559, 561; *United States v. Morrison*, 529 U.S. 598, 610-12 (2000).

Finally, the government emphasizes the standard of review. Memo of US 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 *Lopez*, 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.”). Mr. Ayala accordingly asks this Court to resolve this important question.

CONCLUSION

Mr. Ayala requests that this Court grant his petition.

Respectfully submitted,

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