

NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

JOSEPH CHARLES RIDDLE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent,

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

18 U.S.C. § 922(g)(1) prohibits a person “who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year,” from possessing a firearm or ammunition. Petitioner was convicted for failure to pay child support, but his past conviction satisfying the criteria of being “punishable by imprisonment for a term exceeding one year” was for a nonviolent crime.

The questions presented are:

- (1) Whether 18 U.S.C. § 922(g)(1) is consistent with the Second Amendment to the U.S.

Constitution in all cases, or rather is susceptible to as-applied challenges under the Second Amendment; and

- (2) Whether the Second Amendment prohibits the conviction of, and judgment against, Petitioner for a violation of 18 U.S.C. § 922(g)(1) given the nonviolent character of his prior predicate conviction.

PARTIES TO THE PROCEEDING

The Petitioner in this case is Joseph Charles Riddle, and he was the defendant and appellant in the proceedings below.

Respondent is the United States of America, and it was the plaintiff and appellee in the proceedings below.

RELATED CASES

U.S. Court of Appeals:

On May 7, 2026, the Tenth Circuit affirmed Petitioner's conviction in an unpublished decision, *United States v. Riddle*, No. 25-7067, 2026 WL 1257788 (10th Cir. 2026). *See* Appendix A at App. A1-A3).

U.S. District Court:

On August 22, 2025, judgment was entered against Petitioner Joseph Charles Riddle in *United States v. Riddle*, No. 6-25-CR-00032-JFH-1 (E.D. Okla. Aug. 22, 2025). *See* Appendix B at App. A4-A10.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner, Joseph Charles Riddle, respectfully petitions for a writ of certiorari to review the order and judgment of the United States Court of Appeals for the Tenth Circuit entered on May 7, 2026.

OPINIONS BELOW

The Tenth Circuit's unpublished opinion in Petitioner's case is available at 2026 WL 1257788 (10th Cir. 2026) and is included as Appendix A at A1-A3. The district court's judgment is included as Appendix B at App. A4-A10.

JURISDICTION

The United States District Court for the Eastern District of Oklahoma had jurisdiction in this criminal action pursuant to 18 U.S.C. § 3231. The Tenth Circuit had jurisdiction pursuant to 28 U.S.C. § 1291 and entered judgment on May 7, 2026. *See* App. A1-A3. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Second Amendment of the United States Constitution, U.S. CONST. amend. II, provides:

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.

18 U.S.C. § 922(g)(1) provides:

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 ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

18 U.S.C. §921(a)(20) provides:

The term "crime punishable by imprisonment for a term exceeding one year" does not include –

- (A) Any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or
- (B) Any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

INTRODUCTION

Petitioner asks this Court to grant his petition for writ of certiorari, vacate the decision of the Tenth Circuit, and remand for further proceedings. The Tenth Circuit’s binding precedent in *Vincent v. Bondi*, 127 F.4th 1263, 1265–66 (10th Cir. 2025) [hereafter *Vincent II*] compelled that court to find that § 922(g)(1) does not violate the Second Amendment, both facially and as applied to Petitioner.

Since this Court’s decision in *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022), multiple circuit splits have developed as courts wrestle with applying the *Bruen* analysis to challenges made to 18 U.S.C. § 922(g)(1). The Second, Fourth, Eighth, Ninth, Tenth, and Eleventh Circuits have upheld the constitutionality of 18 U.S.C. § 922(g)(1) on a categorical basis, finding the Second Amendment allows disarmament of all felons, regardless of the nature of their prior convictions. *See Zherka v. Bondi*, 140 F.4th 68, 90 (2nd Cir. 2025); *United States v. Hunt*, 123 F.4th 697, 707–08 (4th Cir. 2024); *United States v. Jackson*, 110 F.4th 1120, 1129 (8th Cir. 2024); *United States v. Duarte*, 137 F.4th 743, 748 (9th Cir. 2025) (*en banc*); *Vincent II*, 127 F.4th at 1265–66; *United States v. Dubois*, 139 F.4th 887, 892–94 (11th Cir. 2025). The Third, Fifth, and Sixth Circuits have opened the door to challengers who claim their prior felony convictions do not permanently disqualify them from

possessing firearms. *Range v. Att’y Gen. U.S.*, 124 F.4th 218, 222–32 (3rd Cir. 2024) (*en banc*); *United States v. Cockerham*, 162 F.4th 500 (5th Cir. 2025); *United States v. Hostettler*, 170 F.4th 539, 542 (6th Cir. 2026). And the First and Seventh Circuits have at least left the door unlocked, if not open. *See United States v. Langston*, 110 F.4th 408, 419–20 (1st Cir. 2024) (rejecting challenge because error was not plain); *United States v. Gay*, 98 F.4th 843, 846–47 (7th Cir. 2024) (assuming as-applied challenges to Section 922(g)(1) possible but rejecting challenge due to defendant’s prior criminal history).

If Petitioner lived in the Fifth Circuit, he would still be permitted to exercise his Second Amendment rights without fear of prosecution. The Fifth Circuit recently held that the Second Amendment invalidates § 922(g)(1) when the underlying felony conviction is for failure to pay child support. *See Cockerham*, 162 F.4th 500. The court applied the two-step framework outlined in *Bruen* and found no historical basis for disarming the defendant for the rest of his life “just because he was once convicted of failure to pay child support.” *Id.* at 510.

The Second Amendment cannot have different meanings in different federal circuits. When a right’s existence depends upon which court has jurisdiction, it is no right at all. This Court should grant Petitioner’s petition for writ of certiorari to address the circuit split that has led to some felons remaining free to exercise their right to bear arms while persons with identical criminal history are being incarcerated for exercising their Second Amendment right.

STATEMENT OF THE CASE

The Petitioner, Joseph Charles Riddle, challenges the Tenth Circuit's analysis of the constitutionality of § 922(g)(1) and asks this Court to settle this open question under the standards set forth in *Bruen*.

The government charged Petitioner with one count of Felon in Possession of Ammunition and one count of Felon in Possession of a Firearm and Ammunition, both in violation of 18 U.S.C. § 922(g)(1). He moved to dismiss the § 922(g)(1) counts in the indictment under the Second Amendment, arguing that, in light of *Bruen*, 597 U.S. 1, § 922(g)(1) was unconstitutional as applied to him. Petitioner recognized that circuit precedent barred his claims but raised them for preservation purposes. The district court denied his motion to dismiss. Petitioner entered a guilty plea in the Eastern District of Oklahoma to one count of Felon in Possession of Ammunition and one count of Felon in Possession of a Firearm and Ammunition in violation of 18 U.S.C. § 922(g)(1).

On appeal, Petitioner renewed his argument, contending that § 922(g)(1) was unconstitutional as applied to him. However, he acknowledged that his claims were foreclosed by Tenth Circuit precedent in *Vincent v. Garland* [hereinafter *Vincent I*], 80 F.4th 1197 (10th Cir. 2023) (relying on *United States v. McCane*, 573 F.3d 1037 (10th Cir. 2009)). The Tenth Circuit affirmed Petitioner's conviction based on *Vincent I*. See App. at A1-A3.

REASONS FOR GRANTING THE WRIT

There is a deep and growing split about whether the Second Amendment allows a blanket ban on the bearing of arms by anyone and everyone for an offense that allows punishment of at least one year. The Tenth Circuit wrongly refuses to assess the validity of § 922(g)(1) under the standard that this Court has established. In some other circuits, to disarm a person, the nature of a defendant's prior conviction must establish dangerousness that justifies disarmament. Petitioner would at a minimum be entitled to show he is not dangerous and would likely not be subject to the § 922(g)(1) prohibition at all given the character of his conviction. As a result, Petitioner stands convicted for conduct that in some parts of the country would have been protected by the Second Amendment and tens of thousands of people are in similar positions.

This Court should grant Petitioner's petition for writ of certiorari because the validity of § 922(g)(1) is an important question of federal law, a circuit split causes the Second Amendment to provide greater protection in some parts of the country than in others, and the Tenth Circuit's ruling is wrong on the merits.

1. The validity of § 922(g)(1) is an important question of federal law.

The right to keep and bear arms is, at its core, the right to defend oneself against attack from those who intend harm. *District of Columbia v. Heller*, 554 U.S. 570, 599 (2008) (concluding that self-defense “was the central component” of the Second Amendment’s right to bear arms (emphasis omitted)); *see also id.*, at 628 (“[T]he inherent right of self-defense has been central to the Second Amendment right.”). The right of self-defense belongs to all individuals, as does the right of armed self-defense. *Bruen*, 597 U.S. at 2. This Court’s test, as set forth in *Bruen*, “[U]ses history and tradition . . . to identify the scope of the legislature’s power to take [the right to bear arms] away.” *United States v. Diaz*, 116 F.4th 458, 466 (5th Cir. 2024) (quoting *Kanter v. Barr*, 919 F.3d 437, 452 (7th Cir. 2019) (Barrett, J., dissenting)).

In fiscal year 2025 alone, there were 7,245 convictions under § 922(g). *See* U.S. Sent. Comm’n, *QuickFacts: 18 U.S.C. § 922(g) Firearms Offenses* (June 2026), <https://www.ussc.gov/research/quick-facts/section-922g-firearms>. Section 922(g)(1) applies to nearly everyone who has committed any offense punishable by more than one year in prison, even those who have never engaged in criminal violence or misused a firearm. In other words, § 922(g)(1) disarms millions of Americans. *See* Sarah K. S. Shannon et al., *The Growth, Scope, and Spatial Distribution of People with Felony Records in the United States, 1948-2010*, 54 *Demography* 1795, 1806–08 (2017) (estimating that, as of 2010, 19 million people in the United States had felony records).

Section 922(g)(1)’s ban on firearm possession is effectively permanent. And it applies to lawful possession of guns, including for self-defense within the home—the “central component” of the Second Amendment. *See Heller*, 554 U.S. at 599. Further, violating § 922(g)(1) could mean spending 15 years in prison, and the lowest possible sentence guideline range is 15 to 21 months. In short, § 922(g)(1) permanently, nearly completely, and in a draconian manner deprives millions of individuals of their ability to exercise a fundamental individual right.

Judges and scholars across the spectrum have recognized the extensive deprivation of rights to which it subjects individuals whose past crimes were nonviolent. “[T]he view that one’s express constitutional rights can be forfeited because one is ‘non-virtuous’ is generally rejected outside the context of the Second Amendment,” Royce de R. Barondes, *The Odious Intellectual Company of Authority Restricting Second Amendment Rights to the “Virtuous”*, 25 *TEX. REV. L. & POL.* 245, 316 (2021) (criticizing application of section 922(g)(1) based on nonviolent crimes), and “there is no historical justification for completely and forever depriving peaceable citizens—even nonviolent felons—of the right to keep and bear arms,” Joseph G.S. Greenlee, *The Historical Justification for Prohibiting Dangerous Persons from Possessing Arms*, 20 *WYO. L. REV.* 249, 286 (2020). Historical

practice “do[es] not support ‘a broad prohibitory regime’ aimed at firearms in general.” *Christian v. James*, 176 F.4th 189, 208 (2d Cir. 2026) (Menashi, J., concurring in part). *see also* F. Lee Francis, *Defining Dangerousness: When Disarmament Is Appropriate*, 56 TEX. TECH L. REV. 593, 625 (2024) (“The right to bear arms ought to require a showing of true dangerousness to render a restriction constitutionally appropriate.”). “[L]egislatures have the power to prohibit dangerous people from possessing guns. But that power extends only to people who are dangerous. Founding-era legislatures did not strip felons of the right to bear arms simply because of their status as felons.” Laura G. Abelson, *Reevaluating Felon-in-Possession Laws After Bruen and the War on Drugs*, 15 UC IRVINE L. REV. 871, 914 (2025) (quoting *Kanter*, 919 F.3d at 451 (Barrett, J., dissenting)) (observing that section 922(g)(1) is “not narrowly tailored” to dangerous people, and urging that “prosecutors and legislators must be cognizant of the lasting effects of the War on Drugs and question the assumption that any prior felony conviction is an accurate proxy for dangerousness”).

2. The circuits are deeply split over the application of the Second Amendment to §922(g)(1).

When a federal statute restricts a person’s Second Amendment rights, the government “bears the burden of showing its regulatory efforts are ‘consistent with the Nation’s historical tradition of firearm regulation.’” *United States v. Hemani*, 608 U.S. ___, slip op. at 4 (June 18, 2026) (quoting *Bruen*, 597 U.S. at 24). The federal circuits have applied this rule inconsistently when evaluating 922(g)(1)’s application to non-violent felonies.

The Third, Fifth, and Sixth Circuits hold that the constitutionality of section 922(g)(1) depends on its application, and that the statute cannot constitutionally infringe on the rights of nonviolent defendants.

The Third Circuit held that the Second Amendment did not permit disarmament of a person who had been convicted of making a false statement to obtain food stamps. *Range*, 124 F.4th at 232 (*en banc*). The Third Circuit reviewed the historical tradition of firearm regulation and considered this

Court’s conclusion in *Rahimi*¹ that the Second Amendment does not prevent Congress from disarming on a temporary basis, “physically dangerous people.” *Id.* at 230.

The Fifth Circuit reversed convictions under § 922(g)(1) because of the Second Amendment on two occasions. *Cockerham* involved a defendant whose predicate prior conviction was for “failing to pay child support,” a Mississippi misdemeanor that carries a potential sentence of up to five years in prison. 162 F.4th at 504. The Fifth Circuit held that as-applied contests under the Second Amendment are permissible, and that historical analogs cannot justify stripping Second Amendment rights on the basis of a child-support default. *Id.* at 510. *United States v. Hembree*, from January 2026, held that it violated the Second Amendment to apply § 922(g)(1) against a person with a conviction for “simple possession of methamphetamine.” 165 F.4th 909, 910, 918 (5th Cir. 2026). The Fifth Circuit “sift[s] the elements of a defendant’s prior convictions through *Bruen*’s analogical framework, and not the defendant himself.” *Cockerham*, 162 F.4th at 509.

The Sixth Circuit holds that section 922(g)(1) is “constitutional on its face and as applied to dangerous people,” but it permits as-applied challenges where defendants must “have a reasonable opportunity to prove that they don’t fit the class-wide generalization” of dangerousness. *United States v. Hostettler*, 170 F.4th 539, 542 (6th Cir. 2026). The Sixth Circuit requires consideration of “the underlying circumstances or details of [the defendant’s] criminal conduct in those [predicate] convictions,” in support of an ‘individualized assessment of dangerousness.’” *Id.* at 544.

The Second, Fourth, Eighth, and Ninth Circuits have held that it does not violate the Second Amendment to apply § 922(g)(1) against defendants who were convicted of non-violent crimes. *Zberka*, 140 F.4th at 93; *Hunt*, 123 F.4th at 700; *Jackson*, 110 F.4th at 1125; *Dubois*, 139 F.4th at 891. But they do not agree on why that is so. According to the Fourth Circuit, prohibiting possession of firearms by a person whose past crime was nonviolent might not, on its own, be

¹ *United States v. Rahimi*, 602 U.S. 680 (2024)

consistent with historical tradition but prohibiting possession by violent felons is permissible, and the Second Amendment does not require a “case-by-case” inquiry. *Hunt*, 123 F.4th at 704.1

The Eighth Circuit reasoned that a person who had been convicted of selling a controlled substance could subsequently be convicted under section 922(g)(1) because “[h]istory shows that the right to keep and bear arms was subject to restrictions that included prohibitions on possession by certain groups of people.” *Jackson*, 110 F.4th at 1126. For example, in the 1600s England barred firearms to “non-Anglican Protestants who refused to participate in the Church of England,” and the American colonies “prohibited Native Americans from owning firearms.” *Id.* The Eighth Circuit extrapolated a principle that “legislatures traditionally possessed discretion to disqualify categories of people from possessing firearms to address a danger of misuse by those who deviated from legal norms, not merely to address a person’s demonstrated propensity for violence.” *Id.* at 1127. In addition, “[l]egislatures historically prohibited possession by categories of persons based on a conclusion that the category as a whole presented an unacceptable risk of danger if armed.” *Id.* at 1128. According to the Eighth Circuit, on either theory, Congress “ha[s] discretion to prohibit possession of firearms by a category of persons such as felons who pose an unacceptable risk of dangerousness.” *Id.* at 1129.

The Ninth Circuit assessed the proposed historical analogs of § 922(g)(1) at length and concluded that § 922(g)(1) is unconstitutional as applied to an individual whose predicate conviction was vandalism, *United States v. Duarte*, 101 F.4th 657, 661-62, 756 (9th Cir. 2024) but then the court reheard the case *en banc*. The *en banc* court held that § 922(g)(1) is constitutional in all applications. *Duarte*, 137 F.4th at 761. The Ninth Circuit reasoned that at the founding felonies could be punished by execution so the greater power (to kill) must include the lesser (to deprive a person of firearms). *Id.* at 756.

The Tenth and Eleventh Circuits have outright refused to analyze § 922(g)(1) under *Bruen*. These circuits adhere to their pre-*Bruen* precedent and insist that *Bruen* changes nothing. *Dubois*, 139 F.4th at 893; *Vincent II*, 127 F.4th at 1265. The Tenth Circuit also refused to rehear the issue *en banc*. *United States v. Forbis*, No. 24-5097 (10th Cir. Jan. 8, 2026) (denying rehearing petition).

This well-developed circuit split warrants this Court’s review.

3. The Tenth Circuit has decided the issue incorrectly and refused to even apply the mandatory *Bruen* test.

In *Bruen*, this Court applied a historical tradition test to assess the constitutionality of firearms regulations that contravene the Second Amendment’s plain text. *See Bruen*, 597 U.S. at 17. Under that test, “[o]nly if a firearm regulation is consistent with this Nation’s historical tradition may a court conclude that the individual’s conduct falls outside the Second Amendment’s ‘unqualified command.’” *Id.* Two years later, this Court reaffirmed this analysis and upheld 18 U.S.C. § 922(g)(8), reasoning there is a historical tradition of firearm regulation that allows the government to temporarily disarm those who were found to threaten the safety of others. *See Rahimi*, 602 U.S. at 698-99.

Despite this Court’s plain direction for lower courts to apply the historical tradition test when a firearm regulation burdens the Second Amendment, the Tenth Circuit has refused to apply that test to challenges to 18 U.S.C. § 922(g)(1). The Tenth Circuit’s approach prohibits those convicted of a felony from ever possessing any firearm or ammunition. This Court has not addressed the constitutionality of permanent bans on firearm possession. *See Rahimi*, 602 U.S. at 713 (Gorsuch, J. concurring) (“We do not resolve whether the government may disarm an individual permanently.”). However, the Tenth Circuit relied on this Court’s dicta in *Heller*, 554 U.S. at 626-27, where it stated that its ruling did not “cast doubt on longstanding prohibitions on the possession of

firearms by felons.” See *Vincent II*, 127 F.4th at 1263, *petition for cert. denied*, no. 24-1155 (Mar. 2, 2026).

Even if some applications of § 922(g)(1) do not offend the Second Amendment, under the test established in *Bruen* and applied in *Rahimi* the statute is unconstitutional as applied to Petitioner. Petitioner’s prior felony conviction was for failure to pay child support. He was not a violent felon who should lose his constitutional right to defend himself with a weapon for the remainder of his life.

4. This issue presents an ideal vehicle for deciding the questions presented.

Petitioner filed a motion to dismiss his Indictment on Constitutional grounds in the district court. He argued, among other things, that his conduct was protected by the Second Amendment and that the government could not establish that a permanent ban on firearm possession because of his felony conviction of failure to pay child support was part of the historical tradition of firearm regulation at the time of the ratification of the Second Amendment. He also argued that a permanent ban of firearm possession of a felon who has no history of violence or dangerous behavior violates the Second Amendment. Petitioner also argued that his prior conviction for “Nonsupport” was not a “violent” felony conviction and would not suggest that his possession of a firearm would deem him dangerous. The district court denied his motion, and he entered a guilty plea pursuant to a plea agreement. The plea agreement reserved the right to appeal the denial of his motion to dismiss.

On appeal to the 10th Circuit Court of Appeals, Petitioner argued it was a violation of the Second Amendment to deny him the right to possess a firearm because of his prior conviction for failure to pay child support, a nonviolent offense. The Tenth Circuit affirmed the district court’s judgment.

The lower courts are deeply divided on how the Second Amendment affects § 922(g)(1), and that split has deepened. The Court has denied multiple petitions raising questions related to the constitutionality of § 922(g)(1). However, this case is an ideal vehicle to resolve the pressing debate about the constitutionality of one of the most frequently prosecuted federal criminal statutes.

CONCLUSION

This Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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