No. 26-

In the

Supreme Court of the United States

LAWRENCE REHMEIL ANDERSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

I. Whether petitioner's Fifth and Sixth Amendment rights to a jury verdict were denied when the court and not a jury determined that his prior convictions were on separate occasions thus subjecting him to the enhanced penalties of the Armed Career Criminal Act.

II. Whether North Carolina's breaking or entering convictions should qualify as predicate convictions under the Armed Career Criminal Act.

III. Whether 18 U.S.C. §922(g)(1) is a violation of the Second Amendment to the United States Constitution both facially and as applied to petitioner in view of the Supreme Court ruling in *New York State Rifle & Pistol Association, Inc., v. Bruen.*

PARTIES TO THE PROCEEDINGS

The petitioner (defendant-appellant below) is Lawrence Rehmeil Anderson.

The respondent (the plaintiff-appellee below) is United States of America.

RELATED PROCEEDINGS

Criminal Judgment and direct appeal

Criminal Court for the Middle District of North Carolina:

United States of America v. Lawrence Rehmeil Anderson, No. 1:20-cr-00416-WO-1, United States
District Court for the Middle District of North Carolina, Greensboro

Judgment entered January 9, 2023

Fourth Circuit Court of Appeals:

United States of America v. Lawrence Rehmeil Anderson, No. 23-4096, judgment entered May 12, 2026

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Lawrence Rehmeil Anderson respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit.

OPINIONS BELOW

The Fourth Circuit's order, Pet. App. 1a, is unpublished. The judgment in a criminal case of the United States District Court for the Middle District of North Carolina, Pet. App. , 7a, is not published.

JURISDICTION

The Fourth Circuit entered judgment on May 12, 2026. Pet. App. 1a. No petition for rehearing was filed. This Court has jurisdiction under 28 U.S.C. §1254(1).

RELEVANT CONSTITUTIONAL PROVISIONS

A. The Fifth Amendment to the Constitution of the United States provides in relevant part:

No person...shall be deprived of life, liberty, or property, without due process of law.

B. The Sixth Amendment to the United States Constitution provides, in relevant part:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial...

C. The Second Amendment to the United States Constitution 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.

STATUTORY PROVISIONS INVOLVED

A. 18 U.S.C. §924(e)(2)(B)(2006) provides in relevant part, that a "violent felony" under the Armed Career Criminal Act is: Any crime punishable by imprisonment for a term exceeding one year***that – (i) has as an element the use, attempted use, or **threatened** use of physical force against the person of another; or (ii) is burglary, arson, or extortion, involves use of explosives or otherwise involves conduct that presents a serious potential risk of physical injury to another.

B. North Carolina General Statute Section 14-54(2013) defines breaking or entering as follows: (a) Any person who breaks and enters any building with intent to commit any felony or larceny therein shall be punished as a Class H felon. (a1) Any person who breaks or enters any building with intent to terrorize or injure an occupant of the building is guilty of a Class H felony. (b) any person who wrongfully breaks or enters any building is guilty of a Class 1 misdemeanor. (c) As used in this section, building shall be construed to include any dwelling, dwelling house, uninhabited house, building under construction, building within the curtilege of a dwelling house, and any other structure designed to house or secure within it any activity or property.

INTRODUCTION

In this case the petitioner's Fifth and Sixth Amendment rights to a jury verdict were denied when the court and not a jury determined that his prior convictions were on separate occasions, thus subjecting him to the enhanced penalties of the Armed Career Criminal Act. The district court when faced with this Court's decision in *Wooden v. United States,* 142 S. Ct. 1063 (March 7, 2022) decided that if a trial judge ruled that the occasions were different without the consideration of a jury the consequential error would be reviewed for harmlessness. There is no question in this case that the trial court violated *Wooden*.; however, it is the decision of the Fourth Circuit that said error could be reviewed for harmlessness which is the subject of this petition.

Secondly, this petition raises the issue of whether North Carolina's Breaking or Entering convictions qualify as predicate convictions under the Armed Career Criminal Act. This issue was raised before the Fourth Circuit, and the Fourth Circuit decided that the issue had been foreclosed by its decisions in *United States v. Dodge*, 963 F.3d 379, 384-85 (4th Cir. 2020) and *United States v. Mungro,* 754 F.3d 267, 272 (4th Cir. 2014). This petition raises the issue of whether the Fourth Circuit's decision in that regard is correct and advances the argument that the North Carolina statute does not qualify as a predicate conviction under the Armed Career Criminal Act.

Finally, this petition raises the issue of whether 18 U.S.C. Section 922(g)(1) violates of the Second Amendment of the United States Constitution both facially and as applied to the petitioner in view of the Supreme Court ruling in *New York State*

Rifle & Pistol Association, Inc., v. Bruen, 597 U.S. 1 (2022). Cases were cited to the Fourth Circuit by the petitioner from the Third Circuit and the Ninth Circuit suggesting that the constitutional efficacy of 18 U.S.C. Section 922(g)(1) is in question in light of *Bruen*. The Fourth Circuit rejected that contention relying on circuit precedent in *United States v. Hunt*, 123 F.4th 697 (4th Cir. 2024) and *United States v. Canada*, 123 F.4th 159 (4th Cir. 2024). The Fourth Circuit ruled that those cases are binding on this panel in that one panel cannot overrule the other according to *United States v. Runyon*, 994 F.3d 192, 201 (4th Cir. 2021). This petition thus raises the conflict among the circuits in regard to *Bruen's* affect on the constitutionality of the Armed Career Criminal Act provision and asserts that the Court should resolve this conflict among the circuits.

STATEMENT

I. Factual background.

On February 24, 2015, petitioner was convicted of two counts of Felony Breaking or Entering in Edgecombe County, North Carolina. On June 4, 2015 he was convicted of two counts of Felony Breaking or Entering in Nash County, North Carolina. On June 5, 2020, US Marshals went to his residence in Orange County, North Carolina to arrest petitioner; and an occupant of that residence said petitioner was not there but gave the officers permission to search the residence for him. He was found hiding in the residence, and the firearm was found near him. Consequently, he was charged federally in a single count bill of indictment based on that possession with being a felon in possession of a firearm in the Middle District of North Carolina (*United States v. Lawrence Rehmeil Anderson,* 1:20CR416).

II. Middle District of North Carolina Proceedings.

A one count bill of indictment was returned by the grand jury for the Middle District of North Carolina on September 28, 2020, which charged petitioner with knowingly possessing a firearm after having three previous convictions for a violent felony or serious drug event, or both, committed on occasions different from one another, and each conviction being for a crime punishable by imprisonment for a term exceeding one year in violation of 18 United States Code, Sections 922(g)(1) and 924(e)(1). The petitioner entered into a plea agreement to plead guilty to the indictment on February 9, 2021. The government filed a factual basis document on February 10, 2021. A presentence investigation report was filed on August 23, 2021. A sentencing hearing was conducted on October 20, 2021, and the trial court entered its judgment on December 13, 2021, sentencing the petitioner to 192 months imprisonment based on enhanced sentencing for his prior record pursuant to the Armed Career Criminal Act.

Petitioner filed his notice of appeal to the Fourth Circuit on December 21, 2021. 4COA#21-4712. On May 31, 2022, the Fourth Circuit, based on a joint motion to remand in light of this Court's decision in *Wooden v. United States*, 142 S.Ct. 1063 (2022), remanded the case to the Middle District of North Carolina. *Wooden* was decided on March 7, 2022, and held that defendant's ten convictions of breaking and entering into ten storage units in the same facility on the same night only constitute a single occasion rather than ten occasions. The probation office in preparation for the resentencing hearing in the case which is the subject of this petition, opined that it appeared that petitioner's offenses occurred on separate occasions and thus the requirements of the Armed Career Criminal Act were met. Both the government and petitioner disagreed with the probation office and asserted that the decision as to whether the predicate felonies occurred on separate occasions was a jury issue and not a judge's decision. Moreover, petitioner further maintained that his North Carolina breaking or entering convictions are not adequate predicate convictions under the Armed Career Criminal Act. A resentencing hearing was held on January 9, 2023. The trial court disagreed with both the government and petitioner as to whether a jury had to decide the occasions issue, and the court decided that the prior convictions qualified as predicates. Petitioner was sentenced to 184 months of imprisonment—still based on the enhancements due to his prior record. On February 21, 2023, he again appealed to the Fourth Circuit in Record No. 23-4096.

III. Fourth Circuit Court of Appeals proceedings below.

Petitioner appealed his conviction to the Fourth Circuit Court of Appeals for the second time on February 21, 2023. *United States v. Lawrence Rehmeil Anderson*, 4th Circuit Case No. 23-4096. In his appeal he raised three issues to wit: (a) whether his Fifth and Sixth Amendments rights to a jury verdict were denied when the court and not a jury determined that his prior convictions were on separate occasions thus subjecting him to the enhanced penalties of the Armed Career Criminal Act (b) whether North Carolina's felony Breaking or Entering convictions qualify as predicate convictions under the Armed Career Criminal Act and (c) whether 18 U.S.C. Section 922(g)(1) is unconstitutional, both facially and applied to petitioner in light of Supreme Court decision in *New York State Rifle & Pistol Association, Inc.*, *v. Bruen*, 597 U.S. 1 (2022). The Fourth Circuit entered its unpublished opinion on May 12, 2026, rejecting each of these bases of the appeal.

REASONS FOR GRANTING PETITION

This case readily merits the Court's review. The questions presented are plainly important and at least the issue of North Carolina's breaking or entering statute being a non violent crime is frequently recurring, and this case provides an ideal vehicle for the Court to address them. Moreover, the order of the Fourth Circuit which forms the basis of this petition is wrong and should be righted to protect petitioner's rights under the Constitution. The petition should be granted.

I. The question presented is important, and this case is an excellent vehicle for resolving it.

The questions presented here are exceptionally important, and this case provides an excellent vehicle for the Court's review. This petition is unique in that it not only raises the issue of whether North Carolina's breaking or entering convictions qualify as predicate convictions under the Armed Career Criminal Act, but it also raises the issue of whether violations of *Wooden's* requirement for jury determination of separate occasions concerning enhanced penalties under the Armed Career Criminal Act are subject to harmless error review. It also raises the issue under *Bruen* of whether the Second Amendment allows prohibition of guns for defendants whose prior felonies are non violent. This unique combination makes this case particularly important and makes it a unique vehicle to decide these pressing issues.

A. Petitioner's Fifth and Sixth Amendment rights to a jury verdict were denied when the court and not a jury determined that his prior convictions were on separate occasions thus subjecting him to the enhanced penalties of the Armed Career Criminal Act.

Petitioner's original appeal to the Fourth Circuit (USCA Case No. 21-4712) was pending before the Fourth Circuit when this Court decided *Wooden v. United States,* 142 S. Ct. 1063 (March 7, 2022). On May 31, 2022, the Fourth Circuit, based on a joint motion to remand in light of *Wooden*, remanded the case to the Middle District of North Carolina.

Wooden held that the occasions language of the Armed Career Criminal Acts significant sentence would not apply to offenses committed on a single occasion. Further, this Court had ruled in 2024 that criminals are entitled "to have a jury resolve ACCA's occasions inquiry unanimously and beyond a reasonable doubt". *Erlinger v. United States,* 144 S.Ct. 1840, 1852 (2024). Consequently, when the case was remanded to the district court both the government and petitioner urged the district court to submit the decision as to whether the predicate felonies occurred on separate occasions to a jury for determination. The district court rejected this request and decided his prior convictions qualified as predicates.

This decision by the district court was appealed to the Fourth Circuit on February 21, 2023. In that appeal the Fourth Circuit decided that if a trial judge ruled that the occasions were different without the consideration of a jury that the error would be reviewed for harmlessness relying on its precedent in *United States v. Brown,* 136 F.4th 87, 92-96 (4th Cir. 2025). *United States v. Anderson,* 4th Circuit Case No. 23-4096 (May 12, 2026). In *Erlinger* both Chief Justice Roberts and Justice

Kavanaugh suggested harmless error review would be permissible. Justice Kavanaugh, in his dissent at p. 1867: "I would hold that any Sixth Amendment error in this case was harmless." Chief Justice Roberts, in his concurring opinion at p. 1860: "A defendant is entitled to have a jury determine beyond a reasonable doubt whether his predicate offenses were committed on different occasions for purposes of the Armed Career Criminal Act. But as Justice KAVANAUGH explains, violations of that right are subject to harmless error review."

Chapman v. California, 386 U.S. 18, 22 (1967) held "that there may be some constitutional errors within the setting of a particular case that are *so unimportant and insignificant* that they may, consistent with the Federal Constitution be deemed harmless, not requiring the automatic reversal of the conviction." (Emphasis added). The *Erlinger* court, however, found Fifth and Sixth Amendments require a unanimous jury to make the determination beyond a reasonable doubt that a defendant's prior offenses were committed on separate occasions. *Erlinger,* relying, in part, on *Apprendi v. New Jersey,* 530 U.S. 466, 120 S.Ct. 2348, 147 L.Ed.2d 435 (2000), noted at page 1860 that "the right to a jury trial 'has always been' an important part of what keeps this Nation 'free'...because the Fifth and Sixth Amendments do not tolerate the denial of that right in this case". *Erlinger* also cites *Wooden.*

Rule 52(a) of the Federal Rules of Criminal Procedure defines harmless error as "(a)ny error, effect, irregularity or variant that does not affect substantial rights must be disregarded." In view of the language of Rule 52(a) and the opinion in

Erlinger, it is not reasonable to say that this denial of jury determination is an unsubstantial right.

The district court herein entered its amended judgment on February 17, 2023, following its resentencing hearing. Consequently, it ruled with the benefit of the *Wooden* decision. Since a *Wooden* violation is not a structural error, its violation may be reviewed for harmlessness. However, the Fourth Circuit decided this appeal on May 12, 2026, with the full benefit of the *Erlinger* decision. The Fourth Circuit determined that an *Erlinger* error is subject to harmless error review relying on its precedent in *United States v. Brown,* 136 F.4th 87, 92-96 (4th Cir. 2025). *United States v. Anderson*, 4th Circuit Case No. 23-4096 (May 12, 2026). It is the contention of the petitioner that the *Erlinger* error is a substantial constitutional right in that it is a right to a trial by jury guaranteed to him by the Fifth and Sixth Amendments to the United States Constitution and should not be subject to harmless error review.

B. North Carolina's Breaking or Entering convictions should not qualify as predicate convictions under the Armed Career Criminal Act.

It is the contention of the petitioner that the Fourth Circuit in this case is wrong in that it is inconsistent with this Court's decisions in *Taylor v. United States,* 495 U.S. 575 (1990); *Mathis v. United States*, 579 U.S. 500, 136 S.Ct. 2243, 195 L.Ed. 2d 604 (2016), and *United States v. Stitt*, 139 S. Ct. 399 (2018) in that it considers as a violent felony North Carolina's Breaking or Entering statute that includes breaking into structures and vehicles which house property and not people. In *Stitt* this Court made it clear that it is important where an offense takes place in deciding whether it qualifies as a generic burglary under the Armed Career Criminal Act. *Stitt* determined that the Congress viewed burglary as an "inherently dangerous crime" in that "it creates the possibility of a violent confrontation between the offender and an occupant, caretaker, or some other person who comes to investigate." *Stitt,* 139 S. Ct. at 406 which quotes from this Court's decision in *Taylor v. United States*, 495 U.S. 575, 588 (1990). Thus, the burglary is violent because of its potential for a violent confrontation. *Stitt* at 403-404, 406. Likewise, the statutes reviewed in *Mathis* and *Taylor* did not qualify as predicates because those statutes did not have the risk of violent confrontation. Thus, it is the fact that the North Carolina Breaking or Entering statute involves structures that do not house people and therefore do not risk violent confrontation that cause it to be inconsistent with the federal statute's requirement that the predicate statute must have "as an element the use, attempted use, or threatened use of physical force against the person of another" or is a burglary which "involves conduct that presents a serious potential risk of physical injury to another".

Thus, the Fourth Circuit in this case ignored the holdings of this Court as outlined above and in cases both before and after *Stitt* in sister circuits. See, *United States v. Jones,* 951 F.3d 1138 (9th Cir. 2019) which determined that Colorado's second degree burglary of a dwelling was a predicate offense under the Armed Career Criminal Act in that it "cover[ed] only conduct within the generic offense of burglary as defined by the Supreme Court in *Stitt*." *Jones*, 951 F.3d at 1141. The Colorado statute only involved buildings used for habitation. In contrast, the North Carolina statute included breaking or entering into a building which could be used "'for the storage or safekeeping' of property." This definition of the building which could include a facility merely for the storage of property was overly broad and violates *Stitt,* 139 S. Ct. at 406. Similar decisions of other circuits include *Greer v. United States*, 938 F.3d 766 (6th Cir. 2019) which held that the Ohio aggravated burglary statute was consistent with the generic definition of burglary in that it required a person to be present or to be likely to be present in the structure. *Greer* relied on *Stitt, Mathis and Taylor* in noting that the Ohio burglary statute was applicable "only to habitations 'in which at the time any person is present or likely to be present,'". *Greer v. United States* , 938 F.3d at 777. A similar conclusion also relying on *Stitt,* was reached in the Eighth Circuit in *United States v. Sims*, 933 F.3d 1009 (8th Cir. 2019) in regard to the Arkansas burglary statute. On remand the Eighth Circuit concluded that the burglary statute in Arkansas would be an appropriate predicate offense in that it applied only to vehicles "in which someone lives or that are customarily used for an overnight accommodation". Therefore, it addressed the risk of violence which Congress was concerned with when it passed the Armed Career Criminal Act. *Sims,* 933 F.3d at 1015. Finally, the Fifth Circuit upheld a Louisiana simple burglary statute as being an appropriate predicate violent felony in *United States v. Montgomery,* 974 F. 3d 587 (5th Cir. 2020) in that the statute targeted offenses where there was a potential for violent confrontation between an offender and the occupant. *Montgomery* relied on *Taylor*. The Fourth Circuit's failure to focus on *Stitt's* requirement that a predicate statute must focus "upon circumstances where burglary is likely to present a serious risk of violence." *Stitt,* 139 S. Ct. at 407, violates this Court's decisions in *Stitt, Taylor* and *Mathis.*

Finally, North Carolina's statute does not require an entry which is an essential component of generic burglary. In *Mathis,* 136 S. Ct. at 2248 this Court concluded that generic burglary involves the "unlawful or unprivileged entry into...a building or other structure with intent to commit a crime." *Mathis* was relying on *Taylor*. See also *Shepard v. United States*, 544 U.S. 13, 17 (2005). Further, this Court has heretofore required an entry in order for it to be a generic burglary. A statute must require entry in order to be a generic burglary. See *Descamps v. United States,* 570 U.S. 154, 277 (2013). North Carolina's breaking or entering statute merely requires breaking or entering, therefore it can be violated by breaking alone. See, *State v. Myrick*, 291 SE 2d 577 (N.C. 1982) and *State v. Jones*, 157 SE2d 610 (N.C. 1967). Further, the Eighth Circuit declared that the Arkansas statute for breaking or entering a vehicle for purposes of committing theft under Arkansas law is not a violent felony under the Armed Career Criminal Act. *United States v. Livingston*, 442 F.3d 1082, 1087 (8th Cir. 2006). Further, Court of Appeal in the Second, Fourth, Fifth, Seventh, Eighth and Tenth upheld statutes criminalizing attempted burglary do not qualify as enumerated burglary. See, *United States v. Evans,* 924 F.3d 21 (2nd Cir. 2019); *United States v. Thomas,* 2 F.3d 79 (4th Cir. 1993); *United States v. Martinez*, 954 F.2d 1040 (5th Cir. 1992), *Van Cannon v. United States*, 890 F.3d 656 (7th Cir. 2018); *United States v. Smith*, 645 F.3d 998 (8th Cir. 2011); and *United States v. Strahl,* 958 F.2d 980 (10th Cir. 1992).

Therefore, since attempted burglary does not qualify under the Armed Career Criminal Act as a violent felony and since North Carolina's statute allows a conviction for conduct which is the same as a generic attempted burglary, North Carolina's breaking or entering statute cannot be a predicate violent felony under the Armed Career Criminal Act.

C. 18 U.S.C. Section 922(g)(1) is a violation of the Second Amendment to the United States Constitution both facially and applied to petitioner in view of the Supreme Court ruling in *New York State Rifle and Pistol Association, Inc., v. Bruen.*

In the previous argument petition maintains that North Carolina's breaking or entering statute is a non violent felony. This argument is grounded on the success of that argument. It is, therefore, the contention of this argument that petitioner's convictions of the nonviolent crime of violating North Carolina's breaking or entering statute would not prohibit his possession of a firearm pursuant to this Court's ruling in *New York State Rifle & Pistol Assn, Inc., v. Bruen,* 597 US 1, 142 S. Ct. 2111 (2022). The Court held in *Bruen* that "(t)he constitutional right to bear arms in public for self defense is not 'a second-class right, subject to an entirely different body of rules than the other Bill of Right guarantees.' *McDonald,* 561 U.S. at 780, 130 S. Ct. 3020". Under *Bruen* a defendant need not prove some special need to possess the weapon in order to carry it in public for self defense. Individuals possess any ordinary self defense need and therefore they exercise their right to keep and bear arms. *Bruen*, 142 S. Ct. 2156.

It appears that there is unanimous consent among the federal circuits that 18 U.S.C. §922(g)(1) is facially valid when its purpose is to disarm violent felons under the holding of *United States v. Rahimi,* 602 U.S. 680 (2024), 144 S. Ct. 1889 (2024). However, if the underlying felonies are non violent (as petitioner contends in the preceding argument his prior convictions to have been) there is a split among the circuits as to whether such a conviction can lawfully prevent an individual from possessing a firearm under the Second Amendment. In the 2nd, 4th, 8th, 9th , 10th and 11th circuits the fact that the predicate is non violent is irrelevant; however, in the 3rd, 5th, and 6th circuits there is a cognizable challenge to non violent prior convictions being an adequate predicate for the crime of being a felon in possession of a firearm. The circuits are split on whether the government can permanently disarm a citizen whose prior convictions are non violent felony convictions. The split resulted from the circuits' respective views of *Bruen.* Of course, in the case now before this Court, the Fourth Circuit sided with those circuits holding that the nature of the prior felonies is irrelevant. *United States v. Hunt*, 123 F.4th 697, 703-04 (4th Cir. 2024). The Fourth Circuit found no *Bruen* violation citing *Hunt* and noting that *Hunt* was binding circuit precedent and made no further response to petitioner's second amendment claim. The split in the circuits involved *en banc* rulings on both sides. If the reasoning in the 3rd, 5th, and 6th circuits prevails, petitioner cannot be guilty of being a felon in possession of a firearm under the Second Amendment as interpreted in *Bruen*. The 1st and 7th circuits have yet to determine whether non violent felonies can be the basis for a charge of being a felon in possession of a firearm.

In *United States v. Williams*, 113 F.4th 637 (6th Cir. 2024) a panel relying on *Bruen* and *Rahimi* concluded that the government can under the Second Amendment punish a dangerous felon for possessing a firearm. It leaves for further decision, however, whether individuals convicted of "crimes that pose no threat of physical danger" can, consistent with the Second Amendment, be barred from possessing firearms. It seems probable that the 6th Circuit will conclude that governments cannot; however, it is not definite. The 5th Circuit in *United States v. Cockerham*, 162 F. 4th 500 (5th Cir. 2025), relying on decisions from the 6th Circuit (*Williams*) and the *en banc* decision of *Range v. Attorney Gen. United States,* 124 F 4th 218, 230-32 (3rd Cir. 2024) (*en banc*) takes the position that a non violent felon cannot be prohibited from possessing a firearm. In *Cockerham* the defendant's prior conviction was failure to pay child support, and therefore his conviction under 18 U.S.C. §922(g)(1) violates the Second Amendment. *Cockerham,* 162 F.4th at 510. In an *en banc* decision of the 3rd Circuit in which defendant raised a claim that his 18 U.S.C. §922(g)(1) conviction violates his Second Amendment right to keep and bear arms, the court concluded that "the Government did not carry its burden of showing that the principles underlying our Nation's history and traditions of firearm regulation support disarming *Range*". *Range,* 124 F. 4th at 222. Range's prior conviction was for making a false statement. However, it is the statement made at the conclusion of the decision which should most bear on this Court. "The Supreme Court had the opportunity to take up *Range I* and instead remanded, resurrecting a circuit split and a power of uncertainty. The sooner it provides clarity, the safer our republic will be." *Range*, 124 F. 4th at 285. Apparently this Court has not resolved the entrenched split among the circuits and has denied most, if not all, of the pending petitions for certiorari to address this issue. This Court should do so now.

II. The Fourth Circuit's decision is wrong.

The Fourth Circuit's decision unceremoniously rejects the *Bruen* claim citing binding circuit precedent. However, the *Bruen* claim is meritorious as set forth above and deserves an independent decision. Secondly the Fourth Circuit decision as to whether petitioner's prior North Carolina convictions for breaking or entering qualify as violent felonies was likewise foreclosed by binding circuit precedent. The issue deserves an independent determination for the reasons set forth in the argument above. Finally, the Fourth Circuit was wrong in determining that the violation of *Erlinger* by the district court is subject to harmless error review. That conclusion likewise is erroneous for the reasons set forth above. This Court should correct the erroneous decision of the Fourth Circuit in this petition.

CONCLUSION

For these reasons, the petition should be granted.

Respectfully submitted,

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APPENDIX

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UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-4096

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LAWRENCE REHMEIL ANDERSON,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. William L. Osteen, Jr., District Judge. (1:20-cr-00416-WO-1)

Submitted: December 31, 2025 Decided: May 12, 2026

Before NIEMEYER and HEYTENS, Circuit Judges, and KEENAN, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Peter D. Zellmer, PETER D. ZELLMER, PLLC, Greensboro, North Carolina, for Appellant. Clifton T. Barrett, United States Attorney, JoAnna G. McFadden, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

After Lawrence Rehmeil Anderson pled guilty to possession of a firearm by a convicted felon, in violation of 18 U.S.C. § 922(g)(1), the district court determined that he had previously committed three violent felonies on different occasions, thus qualifying him for an enhanced sentence under the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e). On the parties' joint motion, we remanded Anderson's first appeal to the district court in light of *Wooden v. United States*, 595 U.S. 360 (2022) (clarifying the "multi-factored" inquiry into whether ACCA predicate offenses occurred on different occasions). On resentencing, the district court sentenced Anderson as an armed career criminal to 184 months' imprisonment. Anderson appeals, challenging the validity of his conviction and contending that he was erroneously sentenced as an armed career criminal. For the reasons that follow, we affirm.

I

Anderson first asserts that his conviction is infirm because, following *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022), § 922(g)(1) is unconstitutional, both facially and as applied to him.[1] Anderson does not assert that the convictions that prohibit

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[1] The Government asserts that because Anderson failed to preserve this issue below, our review is for plain error only. Anderson contends that we should consider the issue de novo because he had "good cause" for failing to timely raise the objection—namely, *Bruen* had not been decided when he entered his guilty plea in 2021. Because Anderson's claims fail under either standard, we "assume—solely for the sake of argument—that the plain-error standard does not apply here and that we review [Anderson's] constitutional claims de novo." *See United States v. Hunt*, 123 F.4th 697, 702 (4th Cir.) (discussing similar dispute and noting unresolved "questions about the proper relationship between [Fed. R. Crim. P.] 12 and [Fed. R. Crim. P.] 52"), *cert. denied*, 145 S. Ct. 2756 (2024).

his possession of firearms "[are] pardoned or [that] the law defining the crime[s] of conviction [has been] found unconstitutional or otherwise unlawful." *Hunt*, 123 F.4th at 700 (citation modified). His Second Amendment claims are therefore precluded by binding circuit precedent. *See id.*; *see also United States v. Canada*, 123 F.4th 159, 160-62 (4th Cir. 2024); *United States v. Runyon*, 994 F.3d 192, 201 (4th Cir. 2021) ("In this circuit it is established that one panel cannot overrule another." (citation modified)).

II

Next, under the ACCA, a defendant convicted of a § 922(g) offense faces a statutory sentencing range of 15 years to life imprisonment if he "has three previous convictions . . . for a violent felony or a serious drug offense, or both, committed on occasions different from one another." Anderson first contends that he does not qualify for the ACCA enhancement because his predicate offenses were not "violent felonies." As relevant here, "a violent felony" under the ACCA is "any crime punishable by imprisonment for a term exceeding one year . . . that . . . is burglary" or one of several other enumerated crimes. 18 U.S.C. § 924(e)(2)(B)(ii).

We review de novo the legal question of whether a prior conviction qualifies as an ACCA predicate. *United States v. Cornette*, 932 F.3d 204, 207 (4th Cir. 2019). Anderson's argument that his prior North Carolina convictions for breaking or entering do not qualify as violent felonies is foreclosed by our decisions in *United States v. Dodge*, 963 F.3d 379, 384-85 (4th Cir. 2020), and *United States v. Mungro*, 754 F.3d 267, 272 (4th Cir. 2014). *See Runyon*, 994 F.3d at 201.

Anderson also contends that the district court reversibly erred by determining at sentencing that each of his ACCA predicates occurred on a "different occasion." In *Erlinger v. United States*, 602 U.S. 821, 834 (2024), the Supreme Court held that the facts relating to the different occasions question "must be resolved by a unanimous jury beyond a reasonable doubt (or freely admitted in a guilty plea)." Thus, a district court errs by deciding the different occasions issue at sentencing. *Id.* at 838-39.

But so-called "*Erlinger* errors" are subject to harmless error review. *United States v. Brown*, 136 F.4th 87, 92-96 (4th Cir.), *cert. denied*, 146 S. Ct. 391 (2025).[2] Where, as here, the defendant was convicted after pleading guilty, the Government establishes that an *Erlinger* error is harmless by "show[ing] beyond a reasonable doubt that if . . . [the defendant] had been correctly advised at his plea hearing that he was entitled to have a jury resolve [the different occasions issue] unanimously and beyond a reasonable doubt, he would have nonetheless waived that right and admitted as part of his guilty plea that his prior offenses were committed on different occasions." *Id.* at 97 (citation modified).

In concluding that the *Erlinger* error in *Brown* was harmless, we noted that "Brown chose to plead guilty to the firearm-possession offense after having been twice informed that ACCA's mandatory minimum of 15 years and its maximum of life would apply if the judge found its requirements satisfied." *Id.* at 98. And although Brown raised the different

[2] We held this appeal in abeyance pending decisions in *Brown*; *United States v. Boggs*, No. 22-4707, 2025 WL 1249364 (4th Cir. Apr. 30, 2025) (argued but unpublished); and *United States v. Blackmon*, No. 22-4576, 2026 WL 624484 (4th Cir. Mar. 5, 2026) (argued but unpublished).

occasions issue at sentencing, he did not seek to withdraw his guilty plea. *Id.* Moreover, Brown did not contest the accuracy of his presentence report (PSR), even though the facts alleged therein provided the basis for the district court's different occasions finding. *Id.*

Our analysis in *Brown* leads us to conclude that the error in this case was similarly harmless. First, both in his plea agreement and at the plea hearing, Anderson was informed of the possible ACCA enhancement. During the plea hearing, Anderson confirmed that he had read his plea agreement, discussed it with his attorney, and fully understood its terms. Anderson advised the court that he understood the different statutory ranges that would apply depending on the sentencing court's ACCA determination. Second, although he raised the different occasions issue at sentencing, Anderson did not seek to withdraw his plea. And third, Anderson did not dispute the accuracy of the PSR.

Finally, in *Brown*, we recognized an inverse relationship between the strength of the evidence supporting the ACCA enhancement and the likelihood that a defendant would forgo the benefits of pleading guilty for the opportunity to have a jury decide the different occasions issue. *Id.* There, the evidence supporting Brown's ACCA enhancement was exceptionally strong. *Id.* Thus, "given that the possibility of a favorable verdict on the different occasions issue would have been so exceedingly remote as to be practically irrelevant, we [could not] fathom that Brown would have traded the benefit of pleading guilty for such long odds." *Id.* at 99.

So too here. "The word 'occasion' in [the] ACCA should be given its 'ordinary meaning'—that is, 'essentially an episode or event.'" *Id.* (citation modified, quoting *Wooden*, 595 U.S. at 366). In this case, the PSR, as modified, established that each of

Anderson's ACCA predicates—three North Carolina felony convictions for breaking and/or entering—was perpetrated at a different location, against different victims, at least a week apart from the other offenses. Specifically, the PSR established that Anderson's predicate offenses occurred on September 26, October 6, and October 22, 2014. In our view, this evidence leaves "no doubt that [Anderson] would have pleaded guilty if . . . he had been informed that he was entitled to have a jury find [the different occasions] fact beyond a reasonable doubt." *Id.* We therefore conclude that the *Erlinger* error in this case is harmless.

Accordingly, we affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

AO 245B (NCMD Rev. 01/20) Sheet 1 - Judgment in a Criminal Case

FILED FEB 17 2023 IN THIS OFFICE Clerk U.S. District Court Greensboro, N.C. By

United States District Court
Middle District of North Carolina

UNITED STATES OF AMERICA

v.

LAWRENCE REHMEIL ANDERSON

AMENDED JUDGMENT IN A CRIMINAL CASE

Case Number: 1:20-CR-00416-1

USM Number: 09393-509

*Peter D. Zellmer
Defendant's Attorney

Date of Original Judgment: October 20, 2021

THE DEFENDANT:

☒ pleaded guilty to count 1
☐ pleaded nolo contendere to count(s) _____ which was accepted by the court.
☐ was found guilty on count(s) _____ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18:922(g)(1) and 924(e)(1)	Felon in Possession of a Firearm	06/05/2020	1

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)
☐ Count(s) ☐is ☐are dismissed on the motion of the United States.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the economic circumstances.

*January 9, 2023
Date of Imposition of Judgment

William L. Osteen, Jr.
Signature of Judge

William L. Osteen, Jr., United States District Judge
Name & Title of Judge

2-17-2023
Date

DEFENDANT: LAWRENCE REHMEIL ANDERSON
CASE NUMBER: 1:20-CR-00416-1

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of ***184 months.**

☒ *The court makes the following recommendations to the Bureau of Prisons: that the Defendant be designated to a facility where he may receive mental health counseling and treatment as may be appropriate and where he may receive vocational and educational training to include obtaining his GED.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district.

- ☐ at ____________ am/pm on ____________ .
- ☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- ☐ before 2 pm on .
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on ______________________ to ____ at

______________________________, with a certified copy of this judgment.

UNITED STATES MARSHAL

BY

DEPUTY UNITED STATES MARSHAL

DEFENDANT: LAWRENCE REHMEIL ANDERSON
CASE NUMBER: 1:20-CR-00416-1

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of **four (4) years.**

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
   - ☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
4. ☐ You must make restitution in accordance with 18 U.S.C §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(Check, if applicable.)*
7. ☐ You must participate in an approved program for domestic violence. *(Check, if applicable.)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: LAWRENCE REHMEIL ANDERSON
CASE NUMBER: 1:20-CR-00416-1

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature ________________________________ Date ____________________

DEFENDANT: LAWRENCE REHMEIL ANDERSON
CASE NUMBER: 1:20-CR-00416-1

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall abide by the mandatory and standard conditions of supervised release.

The defendant shall submit to substance abuse testing, at any time, as directed by the probation officer. The defendant shall cooperatively participate in a substance abuse treatment program, which may include drug testing and inpatient or residential treatment, and pay for those treatment services, as directed by the probation officer. During the course of any treatment, the defendant shall abstain from the use of alcoholic beverages.

The defendant shall participate in any educational and/or vocational services program as directed by the probation officer and pay for any program fees as directed by the probation officer. Such programs may include, but is not limited to, High School Diploma, GED preparation, on-the-job training, job readiness training and skills development training.

The defendant shall not associate with or be in the company of any Crips gang member or security threat group member. The defendant shall not frequent any locations where gangs or security threat groups congregate or meet. The defendant shall not wear, display, use, or possess any clothing or accessories which have any gang or security threat group significance.

The defendant shall submit his person, residence, office, vehicle, or any property under his control to a warrantless search. Such search shall be conducted by a United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to such a search may be grounds for revocation; the defendant shall warn any residents that the premises may be subject to searches.

DEFENDANT: LAWRENCE REHMEIL ANDERSON
CASE NUMBER: 1:20-CR-00416-1

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	$100.00	$.00	$.00		

☐ The determination of restitution is deferred until ____________. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

☐ Restitution amount ordered pursuant to plea agreement $

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived pursuant to 18 U.S.C. Section 3612(f)(3) for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* **Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.**
** **Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.**
*** **Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.**

DEFENDANT: LAWRENCE REHMEIL ANDERSON
CASE NUMBER: 1:20-CR-00416-1

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

*A ☒ Lump sum payment of $100.00 due immediately in accordance with: ☐ C, ☐ D, or ☒ F below;

B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or

C ☐ Payment in equal _____ *(e.g. weekly, monthly, quarterly)* installments of $______ over a period of ________ (e.g., months or years), to commence _______ (e.g., 30 or 60 days) after the date of this judgment; or

D ☐ Payment in equal _______ *(e.g. weekly, monthly, quarterly)* installments of $ _______ over a period of _______ (e.g., months or years), to commence _______ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or

E ☐ Payment during the term of supervised release will commence within _______ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

*F ☒ Special instructions regarding the payment of criminal monetary penalties: **Defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.**

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are to be made to the Clerk of Court, United States District Court for the Middle District of North Carolina, 324 West Market Street, Greensboro, NC 27401-2544, unless otherwise directed by the court, the probation officer, or the United States Attorney. **Nothing herein shall prohibit the United States Attorney from pursuing collection of outstanding criminal monetary penalties.**

☐ Joint and Several

Defendant and Co-Defendant Names, Case Numbers *(including defendant number)*, Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment; (2) restitution principal; (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.