

No. \_\_\_\_\_

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IN THE  
**Supreme Court of the United States**

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**GEORGE A. RICHARDSON,**  
**Petitioner,**  
**v.**

**UNITED STATES,**  
**Respondent.**

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**On Petition for a Writ of Certiorari**  
**To the United States Court of Appeals for the Eighth Circuit**

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**APPENDIX**

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**United States Court of Appeals**  
**For the Eighth Circuit**

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No. 25-2251

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United States of America

*Plaintiff - Appellee*

v.

George A. Richardson

*Defendant - Appellant*

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No. 25-2260

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United States of America

*Plaintiff - Appellee*

v.

Aaron F. Pepple

*Defendant - Appellant*

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Appeals from United States District Court  
for the Western District of Missouri - Kansas City

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Submitted: April 17, 2026  
Filed: May 18, 2026  
[Published]

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Before KELLY, GRASZ, and KOBES, Circuit Judges.

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PER CURIAM.

Aaron Pepple and George Richardson were each indicted on one count of being a felon in possession of a firearm in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(8). Each moved to dismiss the indictment, arguing that § 922(g)(1) is unconstitutional on its face and as applied to him. The district court<sup>1</sup> denied the motions, and both pleaded guilty, reserving the right to appeal those rulings.

First, Pepple and Richardson ask us to hold that § 922(g)(1) is unconstitutional on its face because it categorically bans all felons from possessing firearms. Alternatively, they argue that § 922(g)(1) is subject to as-applied Second Amendment challenges based on individual circumstances, including dangerousness. These arguments are squarely foreclosed by precedent. United States v. Jackson, 110 F.4th 1120, 1125–29 (8th Cir. 2024), cert. denied, 145 S. Ct. 2708 (2025) (holding “Congress acted within the historical tradition when it enacted § 922(g)(1) and the prohibition on possession of firearms by felons,” and “there is no need for felony-by-felony litigation regarding the constitutionality of § 922(g)(1)”); United States v. Cunningham, 114 F.4th 671, 675 (8th Cir. 2024) (“The longstanding prohibition on possession of firearms by felons is constitutional[.]”). Pepple and Richardson assert these decisions were wrongly decided, but “[i]t is a cardinal rule in our circuit that one panel is bound by the

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<sup>1</sup>The Honorable Howard F. Sachs, United States District Judge for the Western District of Missouri, adopting the report and recommendation of the Honorable Jill A. Morris, United States Magistrate Judge for the Western District of Missouri.

decision of a prior panel.” United States v. Ledvina, 166 F.4th 716, 720 (8th Cir. 2026) (quoting Mader v. United States, 654 F.3d 794, 800 (8th Cir. 2011) (en banc)).

Next, Pepple and Richardson argue § 922(g)(1) is unconstitutional because it is overbroad. As they acknowledge, an overbreadth challenge is a type of facial challenge traditionally restricted to the First Amendment context. See, e.g., United States v. Hansen, 599 U.S. 762, 769–70 (2023). However, even assuming the overbreadth doctrine applies in the Second Amendment context, an overbreadth challenge can only succeed where “a law’s unconstitutional applications . . . [are] substantially disproportionate to the statute’s lawful sweep.” Id. at 770 (citations omitted). As discussed, we have held that § 922(g)(1) is constitutional in all its applications. Jackson, 110 F.4th at 1125–29; Cunningham, 114 F.4th at 675; Browne v. Reynolds, 150 F.4th 975, 979 (8th Cir. 2025) (“[T]he federal prohibition on possession of firearms by felons is constitutional as a categorical matter.”). Thus, their overbreadth argument is also foreclosed by precedent. See Ledvina, 166 F.4th at 720 (quoting Mader, 654 F.3d at 800).

We affirm.

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IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

|                           |   |                            |
|---------------------------|---|----------------------------|
| UNITED STATES OF AMERICA, | ) |                            |
|                           | ) |                            |
| Plaintiff,                | ) |                            |
|                           | ) |                            |
| v.                        | ) | Case No. 24-00150-CR-W-HFS |
|                           | ) |                            |
| GEORGE A. RICHARDSON,     | ) |                            |
|                           | ) |                            |
| Defendant.                | ) |                            |

**ORDER**

Presently pending is defendant's motion to dismiss the Indictment (Doc. 20). Defendant also seeks reversal of the detention order pursuant to 18 U.S.C. § 3145. (Doc. 29). Specifically, as to whether he is indeed a danger to the community.

As recently held by the Eighth Circuit in United States v. Mull, Appeal No. 23-3424 (Sept. 3, 2024); affirming, 21-cr-03141-RK, concluding that defendant's Second Amendment challenge to his felon-in-possession indictment is foreclosed by this Circuit's recent opinions in United States v. Jackson, 2024 WL 3711155, at \*4 (8<sup>th</sup> Cir. Aug. 8, 2024); United States v. Lowry, 2024 WL 3819783, at \*3 (8<sup>th</sup> Cir. Aug. 15, 2024); and United States v. Cunningham, 2024 WL 3840135, at \* (8<sup>th</sup> Cir. Aug. 16, 2024).

In his motion seeking reversal of the detention order, defendant claims that conditions can be mandated that could reasonably assure his appearance in court and the community's safety. And he repeats his contention that the Bail Reform Act favors release over pretrial detention as well as prior arguments regarding future

dangerousness to the community. Defendant also argues that in denying his motion for reconsideration, the Magistrate Judge determined his risk of arrest on an incorrect Federal Pretrial Risk Assessment (“PTRA”) score.

As noted by Judge Counts in the order denying reconsideration, the PTRA is merely a tool to be used by pretrial services officers in conjunction with a thorough investigation and their own judgment to develop informed decisions. (Doc. 23, p. 4).

Defendant acknowledges that the factual allegations recounted in the Affidavit may be a concerning factor in determining his future dangerousness, but he claims they are not relevant. (Doc. 29, p. 3-4). In his Reply Brief (Doc. 33), defendant repeats these assertions, but they do not support his argument that clear and convincing evidence does not establish his dangerousness to the community.

After conducting a *de novo* review of the record and the pleadings before Judge Counts, as well as the evidence developed at the detention hearing, I find that the factual findings, stipulated to by the parties, support pretrial detention. (Doc. 12). This obviates the need for the district court to prepare its own written findings of fact and statement of reasons supporting pretrial detention and permits explicit adoption of the magistrate’s pretrial detention order. United States v. Cook, 87 F.4<sup>th</sup> 920, 924-25 (8<sup>th</sup> Cir. 2023); citing United States v. King, 849 F.2d 485, 490 (11<sup>th</sup> Cir. 1988) (otherwise, the district court’s function would be reduced to the mere duplicitous task of reproducing the magistrate’s pretrial detention order).<sup>1</sup>

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<sup>1</sup> Compare, United States v. Hurtado, 779 F.2d 1467 (11<sup>th</sup> Cir. 1985)(if Hurtado is to be given a logical construction, it must be that the district

Accordingly, defendant's motion to dismiss the Indictment (Doc. 20), and motion to reverse detention order (Doc. 29) are DENIED.

/s/ Howard F. Sachs  
HOWARD F. SACHS  
UNITED STATES DISTRICT JUDGE

Dated: October 4, 2024  
Kansas City, Missouri

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court is to enter its own findings of fact where factual issues remain to be resolved; thus, when a motion to revoke or amend a pretrial detention order attacks only the magistrate's legal conclusion, the district court need not enter findings of fact). King, at 490.



IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

|                           |   |                               |
|---------------------------|---|-------------------------------|
| UNITED STATES OF AMERICA, | ) |                               |
|                           | ) |                               |
| Plaintiff,                | ) |                               |
|                           | ) |                               |
| v.                        | ) | Case No. 24-00150-01-CR-W-HFS |
|                           | ) |                               |
| GEORGE A. RICHARDSON,     | ) |                               |
|                           | ) |                               |
| Defendant.                | ) |                               |

**REPORT & RECOMMENDATION TO DENY**  
**DEFENDANT'S MOTION TO DISMISS**

Before the Court is Defendant's Motion to Dismiss the Indictment. (Doc. 20) Defendant contests the constitutionality of the statute under which he is charged. For the following reasons, it is recommended that Defendant's motion be denied.

**I. BACKGROUND**

On July 16, 2024, the Grand Jury returned an Indictment charging Defendant with one count of felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(8). (Doc. 17) On July 19, 2024, Defendant filed the instant motion to dismiss. (Doc. 20) The Government filed its suggestions in opposition on August 16, 2024. (Doc. 30) Defendant did not file a reply, and the time for doing so has passed.

**II. LEGAL ANALYSIS**

Title 18, United States Code, Section 922(g)(1) makes it unlawful for a person "who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year" to, *inter alia*, possess in or affecting commerce, a firearm. Defendant contends that the Indictment should be dismissed on grounds that 18 U.S.C. § 922(g)(1) violates the Second

Amendment to the United States Constitution,<sup>1</sup> both facially and as applied. Defendant additionally argues that the statute is unconstitutionally overbroad. Each argument will be addressed in turn.

### **A. Second Amendment**

Citing *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022), Defendant argues that the Indictment should be dismissed on grounds that 18 U.S.C. § 922(g)(1) violates the Second Amendment both facially and as applied to him.<sup>2</sup> This argument is foreclosed by the Eighth Circuit’s recent decisions in *United States v. Jackson*, No. 22-2870, 2024 WL 3711155, at \*4 (8th Cir. Aug. 8, 2024) (“*Jackson II*”) (precluding as-applied statutory challenges), and *United States v. Cunningham*, No. 22-1080, 2024 WL 3840135, at \*3 (8th Cir. Aug. 16, 2024) (“*Cunningham II*”) (concluding that 18 U.S.C. § 922(g)(1) is facially constitutional), which were both decided on remand following *Rahimi*.

In *Jackson II* the Eighth Circuit stated, in relevant part:

We conclude that . . . § 922(g)(1) is not unconstitutional as applied to Jackson based on his particular felony convictions. The Supreme Court has said that nothing in *District of Columbia v. Heller*, 554 U.S. 570, 128 S.Ct. 2783, 171 L.Ed.2d 637 (2008), which recognized an individual right to keep and bear arms, “should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons.” *Id.* at 626, 128 S.Ct. 2783; *see McDonald v. City of Chicago*, 561 U.S. 742, 786, 130 S.Ct. 3020, 177 L.Ed.2d 894 (2010) (plurality opinion) (“We repeat those assurances here.”). The decision in *Bruen*, which reaffirmed that the right is “subject to certain reasonable, well-defined restrictions,” 597 U.S. at 70, 142 S.Ct. 2111, did not disturb those statements or cast doubt on the prohibitions. *See id.* at 72, 142 S.Ct. 2111 (Alito, J., concurring); *id.* at 81, 142 S.Ct. 2111 (Kavanaugh, J.,

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<sup>1</sup>The Second Amendment 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.” U.S. CONST. amend. II.

<sup>2</sup>Defendant states that the Government “chose not to specify [Defendant’s] prior felony convictions. [Defendant] has not been convicted of any offenses involving firearms or violence, and his last felony conviction was more than twenty years ago.” (Doc. 20, p. 2) Defendant’s bond report, which the parties stipulated would be consistent with the testimony from pretrial services, shows prior felony convictions for theft, felon in possession, possession of a controlled substance and conspiracy to distribute phencyclidine. (Docs. 11, 12)

concurring, joined by Roberts, C.J.); *id.* at 129, 142 S.Ct. 2111 (Breyer, J., dissenting, joined by Sotomayor and Kagan, JJ.). Neither did the decision in *Rahimi*. See 144 S. Ct. at 1901-02. Given these assurances by the Supreme Court, and the history that supports them, we conclude that there is no need for felony-by-felony litigation regarding the constitutionality of § 922(g)(1).

In sum, we conclude that legislatures traditionally employed status-based restrictions to disqualify categories of persons from possessing firearms. Whether those actions are best characterized as restrictions on persons who deviated from legal norms or persons who presented an unacceptable risk of dangerousness, Congress acted within the historical tradition when it enacted § 922(g)(1) and the prohibition on possession of firearms by felons.

2024 WL 3711155, at \*5, 7 (emphasis added).

Shortly after the *Jackson II* decision addressing an as-applied challenge, the Eighth Circuit reaffirmed the facial constitutionality of § 922(g)(1) in *Cunningham II*. *United States v. Doss*, No. 22-3662, 2024 WL 3964616, at \*1 (8th Cir. Aug. 28, 2024) (“We have already rejected this argument . . . See *United States v. Cunningham*, — F.4th —, 2024 WL 3840135, at \*3 (8th Cir. Aug. 16, 2024) (concluding that 18 U.S.C. § 922(g)(1) is facially constitutional[.])”). See also *United States v. Lowry*, No. 23-2942, 2024 WL 3819783, at \*3 (8th Cir. Aug. 15, 2024) (finding defendant’s conviction under 18 U.S.C. § 922(g)(1) did not violate his Second Amendment rights); *United States v. Lindsey*, No. 23-2871, 2024 WL 2207445 (8th Cir. May 16, 2024) (per curiam) (affirming denial of both facial and as-applied constitutional challenges to § 922(g)(1)). This Court cannot depart from Eighth Circuit controlling precedent “until overruled by [the] court en banc, by the Supreme Court, or by Congress.” *M.M. ex rel L.R. v. Special Sch. Dist. No. 1*, 512 F.3d 455, 459 (8th Cir. 2008). As a result, Defendant’s as applied and facial challenges must fail.

## **B. Overbreadth**

Defendant also asserts that § 922(g)(1) is unconstitutional on its face, arguing it is substantially overboard, as it strips all felons—non-dangerous and dangerous alike, those with

decades-old convictions, and those with more recent convictions—of their right to possess firearms. Although typically addressed in First Amendment cases, Defendant contends that the overbreadth doctrine should extend to the Second Amendment. Overbreadth claims are recognized only in limited circumstances. *See Sabri v. United States*, 541 U.S. 600, 609-10 (2004) (recognizing “the validity of facial attacks alleging overbreadth (though not necessarily using that term) in relatively few settings, and, generally, on the strength of specific reasons weighty enough to overcome [the Court’s] well-founded reticence.”). Such circumstances are not present here, and Defendant provides no controlling authority in which overbreadth challenges have succeeded in the Second Amendment context. Given the limited application for overbreadth challenges and the lack of support here, the Court declines to invalidate Section 922(g)(1) on overbreadth grounds. Defendant’s motion to dismiss should be denied on this basis.

It is accordingly recommended that § 922(g)(1) be found constitutional on its face and as applied to Defendant Richardson, and that Defendant’s overbreadth claim be denied.<sup>3</sup>

### III. CONCLUSION

Based on the above, it is

RECOMMENDED that the Court, after making an independent review of the record and applicable law, enter an order denying Defendant’s Motion to Dismiss the Indictment.

Counsel are advised that, pursuant to 28 U.S.C. § 636(b)(1), each has fourteen days from

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<sup>3</sup>Although Defendant does not raise a Fifth Amendment challenge to § 922(g)(1), the Government points to the Eighth Circuit’s ruling in *Jackson II*, asserting it does not violate due process by precluding as-applied challenges. The Government further argues that no legal basis extends Fifth Amendment Due Process protections beyond those already provided by the Second Amendment to individuals disarmed under the statute. Even if Defendant had raised a Fifth Amendment argument, the Court would find it unpersuasive.

the date of this Report and Recommendation to file and serve specific objections, unless an extension of time for good cause is obtained.

/s/ Jill A. Morris  
JILL A. MORRIS  
UNITED STATES MAGISTRATE JUDGE



Defendant's Exhibit 1.mp4

[00:00:05] get into it man. That's my family. We sit down here talking. I know. If someone's got a gun pulled on somebody else. He didn't put no gun on me. I'm the person he was talking to. He needed it in front of a police officer on camera. Ma'am. Oh God. The police lying. I'm just saying man. He admitted that he. Like I said man. Our hands are tied at this point. We can't do anything about that. Especially with so many people around him and stuff. Remember the parade and all that. Like we can't. He didn't put no gun on me. If he didn't put a gun on me I'd be like yeah man.

[00:00:35] Right. That's my family. It was done in front of a police officer. He got out the gun and put him up in his way. So he never put no gun on me. No. He never put no gun on me. So who? So who? So who? So who was he? I would have to press the charge. Who called the police? Like I said. I can't get into his business. He can call you with what he's charged with. But he's a grown man. I can't tell you what he's charged with. No I'm saying. Who called the police?

[00:01:05] The police were driving by and saw it.

[00:01:08] Just because you say so, everybody put their guns in their place or in their house.

[00:01:14] Bro, he's talking to me.

[00:01:15] He got to put a better gun, put it in his way, bro, and we start talking.

[00:01:18] So, she just said he put a gun on me.

[00:01:23] He never put a gun on me.

[00:01:25] He said he put a gun.

[00:01:26] He never put a gun on me.

[00:01:27] Once you drove by, it's all going to be in a police report.

[00:01:29] He never put no gun on me, man.

[00:01:31] He never put a gun on me.