

No. 26-_____

In The
Supreme Court of the United States

JERONE TYRELL HOLMAN,

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. The Second Amendment guarantees all citizens the right to bear arms. The circuits are divided, however, on whether 18 U.S.C. § 922(g)(1) runs afoul of that right by blanketly banning every convicted felon from possessing firearms. The question presented here is whether 18 U.S.C. § 922(g)(1) is facially unconstitutional, and if so, when it can be applied constitutionally.

- II. When applying the Guidelines, *Stinson* mandates deference to the Commentary. But since this Court issued *Kisor v. Wilkie*, circuit courts have grappled with the level of deference required when interpreting and applying the Guidelines. The question presented here is whether deference to the Guidelines Commentary is appropriate and, if so, under what circumstances?

PARTIES TO THE PROCEEDING

Petitioner Jerone Tyrell Holman was defendant-appellant below.

Respondent is the United States of America.

STATEMENT OF RELATED PROCEEDINGS

This case arises from the following proceedings:

- *United States v. Holman*, No. 25-4041 (4th Cir. Mar. 27, 2026) (affirming conviction)
- *United States v. Holman*, No. 1:24-cr-00113 (M.D.N.C. Jan. 24, 2025) (entering judgment of conviction)

There are no other proceedings in state or federal trial or appellate courts, or in this Court, directly related to this case within the meaning of this Court's Rule 14.1(b)(iii).

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Jerone Tyrell Holman respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals (App. 1a–21a) is reported at 171 F.4th 303. The district court’s order denying the motion to dismiss is unpublished and was made orally. App., *infra*, 29a–41a. The district court’s judgment and sentence is unpublished and included in Petitioner’s Appendix. App., *infra*, 22a–28a.

JURISDICTION

The court of appeals entered judgment on March 27, 2026. App., *infra*, 1a–21a. On June 23, 2026, Chief Justice Roberts extended the time within which to file a petition for a writ of certiorari up to and including August 24, 2026. This Court has jurisdiction under 28 USC § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

First Question Presented

Section 922(g)(1) of Title 18 provides:

(g) It shall be unlawful for any person--
(1) 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.

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.

The Second Amendment and 18 U.S.C. § 922(g)(1) are reproduced in full, App., *infra*, 42a-65a.

Second Question Presented

Section 994(a) of Title 28 provides in relevant part:

(a) The Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of any Federal statute shall promulgate and distribute to all courts of the United States and to the United States Probation System—

(1) guidelines, as described in this section, for use of a sentencing court in determining the sentence to be imposed in a criminal case, including—

(B) a determination as to the appropriate amount of a fine or the appropriate length of a term of probation or a term of imprisonment

Federal Sentencing Guideline 2K2.1(a) provides in relevant part:

(a) Base Offense Level

(3) 22, if (A) the offense involved a (i) semiautomatic firearm that is capable of accepting a large capacity magazine; or (ii) firearm that is described in 26 U.S.C. § 5845(a); and (B) the defendant committed any part of the instant offense subsequent to sustaining one felony conviction of either a crime of violence or a controlled substance offense;

Application Notes

2. Semiautomatic Firearm That Is Capable of Accepting a Large Capacity Magazine.— For purposes of subsections (a)(1), (a)(3), and (a)(4), a “semiautomatic firearm that is capable of accepting a large capacity magazine” means a semiautomatic firearm that has the ability to fire many rounds without reloading because at the time of the offense (A) the firearm had attached to it a magazine or similar device that could accept more than 15 rounds of ammunition; or (B) a magazine or similar device that could accept more than 15 rounds of ammunition was in close proximity to the firearm. This definition does not include a semiautomatic firearm with an attached tubular device capable of operating only with .22 caliber rim fire ammunition.

STATEMENT

The constitutionality of 18 U.S.C. § 922(g)(1) has created deep circuit split on the validity of a law that is considered “the centerpiece of gun laws in the United States” and “the center of the gun-regulation universe.” Dru Stevenson, *In Defense of Felon-in-Possession Laws*, 43 Cardozo L. Rev. 1573, 1574 (2022). While courts generally agree that section 922(g)(1) is facially constitutional, the discrepancy lies in whether—and how—as applied challenges can be brought. The Fourth Circuit took the position that there is no as applied challenge that can be brought to a section 922(g)(1) conviction (barring a pardon or the crime being otherwise invalidated). In doing so, it relied on pre-*Bruen* precedent. The problem is that Petitioner, if convicted in a different area of the country, could raise an as-applied challenge. In short, his ability to challenge the statute and vindicate his constitutional rights depends on his location.

Petitioner’s second issue asks whether *Stinson* still reflects the manner by which to interpret and apply the United States Sentencing Guidelines commentary.

That issue is currently pending before this Court in *United States v. Beaird*, scheduled to be argued on October 13, 2026.

A. Motion to Dismiss and Sentencing

Here, Petitioner Jerone Tyrell Holman was convicted under the Fourth Circuit's rules on section 922(g)(1). He was indicted in a single-count indictment for a violation of 18 U.S.C. § 922(g)(1). App., *infra*, 2a. Petitioner moved to dismiss the indictment on the ground that it violated the Second Amendment. App., *infra*, 2a. The district court, in an oral ruling, denied that motion. App., *infra*, 29a–41a. In doing so, it relied on the Fourth Circuit's decision in *United States v. Canada*, 123 F.4th 159 (4th Cir. 2024) to deny the facial challenge and then broadly referenced *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022), as well as historical examples within other cases, to deny the as-applied challenge. App., *infra*, 38a–40a.

Preserving his motion to dismiss, Petitioner then pled guilty. At sentencing, he faced a base offense level of 22, in part for his offense involving a semiautomatic firearm capable of accepting a large capacity magazine. App., *infra*, 11a. He did not object, and so his base offense level was enhanced accordingly. App., *infra*, 7a–8a. Ultimately, the district court sentenced Petitioner to 66 months imprisonment. App., *infra*, 23a.

B. The Appeal

On appeal, Petitioner challenged his section 922(g)(1) conviction as unconstitutional, both facially and as applied to him. App., *infra*, 3a–7a. He also raised the proper interpretation of U.S. Sentencing Guideline § 2K2.1(a)(3)—

particularly whether deference to the Commentary was appropriate following *Kisor v. Wilkie*, 588 U.S. 558 (2019) given that the terms “large capacity magazine” and “capable of accepting” are not defined in the Guidelines text.

The Fourth Circuit ruled that there was no room for a facial challenge to 18 U.S.C. § 922(g)(1). It concluded the same for as-applied challenges unless the offense is pardoned or the criminal law is found unconstitutional or otherwise unlawful. App., *infra*, 4a. The court also determined that deference to the Guidelines Commentary was warranted, particularly focusing on the number of rounds to define “large capacity” but declining to engage in a substantive analysis of “capable of accepting.” App., *infra*, 11a–16a.

This case presents the Second Amendment question squarely for the Court’s review. For the second issue, this Court is scheduled to hear arguments in October 2026 addressing whether *Stinson* is still controlling on the deference given to the Guidelines Commentary. See *United States v. Beaird*, No. 25-5343.

REASONS FOR GRANTING THE PETITION

I. The Court of Appeals Are Divided on the Interpretation of § 922(g)(1)’s Constitutionality.

A. Only This Court Can Resolve the Circuit Split.

The Circuits cannot agree on how to properly evaluate Second Amendment challenges to § 922(g)(1). As a result, Americans’ constitutional rights have become a matter of geography, with different protections applying depending solely on the jurisdiction where a person is charged. See, e.g., *United States v. Hemani*, 146 S. Ct. 1677, 1698 n.1 (2026) (Jackson, J., concurring) (noting the inconsistency of courts in

addressing this question). This Court should grant this petition to fix this disarray and bring clarity to a statute that affects the application of fundamental constitutional rights.

B. Six Circuits Forbid As-Applied Challenges to § 922(g)(1).

Six jurisdictions, the Second, Fourth, Eighth, Ninth, Tenth and Eleventh Circuits, hold that § 922(g)(1) is constitutional in any application. As a result, no citizen in any of these jurisdictions can challenge § 922(g)(1)’s reach. These circuits rely heavily on dicta from *Heller* that “prohibitions on the possession of firearms by felons” are “presumptively lawful.” *Zherka v. Bondi*, 140 F. 4th 68, 93–94 (2d Cir. 2025), *cert. denied*, 223 L. Ed. 2d 555 (Jan. 20, 2026) (citing “the Supreme Court’s assurance in *Heller* that ‘longstanding prohibitions on the possession of firearms by felons’ are ‘presumptively lawful.’” (*quoting District of Columbia v. Heller*, 554 U.S. 570, 626-37 n. 26 (2008))).

Yet even within this group, different panels employ different rationales. While some circuits rely talismanically on the “presumptively lawful” language from *Heller*, others conduct historical analyses to conclude that legislatures historically disarmed those who deviated from legal norms or presented an unacceptable risk of danger. These courts reach the same result just by different routes. *Compare Vincent v. Bondi*, 127 F.4th 1263, 1265–66 (10th Cir. 2025), *cert. denied*, 224 L. Ed. 2d 160 (Mar. 2, 2026), *with United States v. Jackson*, 110 F.4th 1120, 1127–29 (8th Cir. 2024), *cert. denied*, 145 S. Ct. 2708 (2025).

According to the Second Circuit, for instance, Congress may disarm felons regardless of the violent or nonviolent nature of their crimes. *Zherka*, 140 F.4th at

91–93. For support, *Zherka* looked to history to confirm this presumption. According to *Zherka*, “history does not support the proposition that status-based disarmament laws were permissible *only* if they also provided a mechanism for individuals to prove that they were not too dangerous to own a firearm.” *Id.* at 91 (emphasis in original). *Zherka* also expressed policy concerns with allowing as-applied challenges, fearing that judicial determinations felons’ dangerousness “usurp[s] the legislative function.” *Id.* at 94. Accordingly, *Zherka* held that § 922(g)(1) was constitutional in all applications.

The Fourth Circuit, meanwhile, adheres to pre-*Bruen* precedent “rejecting as-applied challenges to Section 922(g)(1).” *United States v. Hunt*, 123 F.4th 697, 703 (4th Cir. 2024), *cert. denied*, 145 S. Ct. 2756 (2025). *Hunt* found that, historically, legislatures disarmed categories of people who “deviated from legal norms” and presented a threat to others. *Id.* at 706 (citing *Jackson*, 110 F.4th at 1127). Applying that reasoning, *Hunt* concluded that the activity regulated by § 922(g)(1) “falls outside the scope of the Second Amendment right as originally understood.” *Id.* at 705 (quoting *Bruen*, 597 U.S. at 18) (cleaned up).

Similarly, the Eighth Circuit has held that “there is no need for felony-by-felony litigation regarding the constitutionality of § 922(g)(1).” *Jackson*, 110 F.4th at 1125. Like the Second and Fourth Circuits, the Eighth Circuit found that legislatures “traditionally employed status-based restrictions to disqualify categories of persons from possessing firearms,” including “persons who deviated from legal norms or persons who presented an unacceptable risk of dangerousness.” *Id.* at 1129.

Continuing in the same vein, the Ninth Circuit takes the position that *Bruen* supports its earlier reliance on *Heller*’s “assurances as to felon-in-possession laws” that “foreclose Second Amendment challenges to § 922(g)(1), regardless of whether an underlying felony is violent or not.” *United States v. Duarte*, 137 F.4th 743, 750 (9th Cir. 2025) (en banc), *cert. denied*, 223 L. Ed. 2d 556 (Jan. 20, 2026) (citations omitted). The court “agree[d] with the Fourth and Eighth Circuits that . . . historical tradition is sufficient to uphold the application of § 922(g)(1) to all felons.” *Id.* at 761 (citations omitted).

The Tenth Circuit in *Vincent* held that pre-*Bruen* precedent upholding § 922(g)(1) “remains binding” and that “*Rahimi* doesn’t clearly abrogate the presumptive validity of § 922(g)(1).” 127 F.4th at 1265–66 (citations omitted). Notably, the court conducted no independent historical analysis, concluding instead that its precedent “upheld the constitutionality of § 922(g)(1) without drawing constitutional distinctions based on the type of felony involved.” *Id.* at 1266 (citations omitted).

The final circuit in this group is the Eleventh, which similarly holds that *Rahimi* validated its pre-*Bruen* precedent. *United States v. Dubois*, 139 F.4th 887, 889–90 (11th Cir. 2025), *cert. denied*, 223 L. Ed. 2d 570 (Jan. 20, 2026) (citations omitted). The court reasoned that *Rahimi* “endorsed *Heller*’s understanding that prohibitions on the possession of firearms by felons . . . are presumptively lawful.” *Id.* at 892 (citations omitted). The Eleventh Circuit concluded by requesting what citizens

across the country seek “clearer instruction from the Supreme Court before [it] may reconsider the constitutionality of section 922(g)(1).” *Id.* at 894.

C. Five Circuits Hold That § 922(g)(1) Is Susceptible to As-Applied Challenges.

In contrast to the circuits that categorically foreclose as-applied challenges, a growing number of courts have concluded that *Bruen*’s methodology fundamentally changed the analytical framework for evaluating § 922(g)(1) and abrogated their precedent. *See, e.g., United States v. Williams*, 113 F.4th 637, 645–47 (6th Cir. 2024); *Range v. Att’y Gen.*, 124 F.4th 218, 225–26 (3d Cir. 2024) (en banc). Rather than treat *Heller*’s references to “presumptively lawful” felon-in-possession statutes as an outright bar to individual challenges, some of these circuits view that language as dicta, which must yield to *Bruen*’s two-step analysis. *See, e.g., United States v. Diaz*, 116 F.4th 458, 465–66 (5th Cir. 2024), *cert. denied*, 145 S. Ct. 2822 (2025) (characterizing *Heller*’s “presumptive legality” language as “mere dicta” that “cannot supplant” *Bruen*’s historical methodology).

Critically, some of these circuits reject the proposition that felons fall outside “the people” protected by the Second Amendment and instead require courts to assess whether disarming a particular defendant is consistent with the Nation’s historical tradition of firearm regulation. *See Range*, 124 F.4th at 226–28; *Diaz*, 116 F.4th at 466–67. In conducting this inquiry, courts in this camp have found that historical analogues, such as laws disarming Loyalists, Catholics, and Native Americans, do not justify the modern statute’s sweeping application to all felons, particularly those convicted of nonviolent offenses. *See Range*, 124 F.4th at 229–30 (noting that such

historical laws would be “unconstitutional” today and offer “nothing to prove” that a food-stamp fraud defendant “is part of a similar group”). This approach recognizes that “[s]imply classifying a crime as a felony does not meet the level of historical rigor required by *Bruen* and its progeny.” *Diaz*, 116 F.4th at 469. Instead, historical analogues support individualized determinations of dangerousness for at least some categories of convicted felons. *See Williams*, 113 F.4th at 657, 663–64.

Take, for instance, the Third Circuit. The Third Circuit’s en banc decision in *Range* held that § 922(g)(1) is unconstitutional as applied to a defendant convicted of making a false statement to obtain food stamps. 124 F.4th at 222–24. Unlike many circuits, there, the court concluded that “*Bruen* abrogated our Second Amendment jurisprudence” and that the defendant “remains among ‘the people’ protected by the Second Amendment.” *Id.* at 225–28, 232. Then, as part of the historical inquiry, the court found that Founding-era analogues proffered by the government, including laws disarming groups like “Loyalists, Native Americans, Quakers, Catholics, and Blacks[,]” would now be unconstitutional and do “nothing to prove that *Range* is part of a similar group today.” *Id.* at 229 (citation omitted).

The Fifth Circuit in *Diaz* similarly held that *Bruen* was a significant change in law. In doing so, it reasoned that *Heller*’s language regarding “presumptive legality” of felon-in-possession statutes is “mere dicta,” which “cannot supplant the most recent analysis set forth by the Supreme Court in *Rahimi*.” 116 F.4th at 465–66 (citations omitted). The court also rejected the government’s argument that felons are not among “the people” under the Second Amendment. *Id.* at 466–67. The court went

further, emphasizing that “[s]imply classifying a crime as a felony does not meet the level of historical rigor required by *Bruen* and its progeny.” *Id.* at 469.

Continuing with this same reasoning, the Sixth Circuit has held that *Bruen* and *Rahimi* abrogated its earlier precedent. *Williams*, 113 F.4th at 645-47. It instead took the position that “*Bruen* requires a history-and-tradition analysis that our circuit hasn’t yet applied to” section 922(g)(1). 113 F.4th at 645. The court concluded that “most applications of § 922(g)(1) are constitutional,” but “history shows that § 922(g)(1) might be susceptible to an as-applied challenge” because “each member of that disarmed group has an opportunity to make an individualized showing that he himself is not actually dangerous.” *Id.* at 657, 663.

Finally, the Seventh Circuit and D.C. Circuit do not foreclose as-applied challenges. Although the Seventh Circuit has rejected a defendant’s challenge based on his extensive criminal history and parolee status, it did not exclude as-applied challenges categorically. *United States v. Gay*, 98 F.4th 843, 846–47 (7th Cir. 2024), *reh’g denied*, No. 23-2097, 2024 WL 3816648 (7th Cir. Aug. 14, 2024) (“We may assume for the sake of argument that there is *some* room for as-applied challenges, but that assumption does not assist Gay.”). Similarly, the D.C. Circuit, in *United States v. Johnson*, rejected the defendant-appellant’s facial and as-applied challenges on plain error review, citing precedent holding that § 922(g)(1) did not govern activity falling under the Second Amendment. 158 F.4th 200, 208–09 (D.C. Cir. 2025) (citation omitted). However, the court left open the “possibility that a felon could show that his

crime was so minor or regulatory that he did not forfeit his right to bear arms by committing it.” *Id.* at 209–10.

D. This Question is Exceptionally Important and Squarely Presented.

The circuits have split into two primary camps regarding the constitutionality of § 922(g)(1), with significant discrepancies within each group, causing inconsistent application of a statute affecting millions of Americans.

“Today, § 922(g)(1) is one of the most significant gun laws in our modern regulatory framework.” *Duarte*, 137 F.4th at 747. Eighty-nine percent of those convicted under Section 922(g) are convicted under Section 922(g)(1). *See* U.S. Sent’g Comm’n, *Quick Facts: 18 U.S.C. § 922(g) Firearms Offenses* 1 (2025). But for a significant portion of the country, defendants have no opportunity to raise legitimate challenges to their convictions under this subsection. They are barred from the start. If that is correct, then this Court needs to say so. *Bruen* brought a sea-change to many circuits’ understanding of the Second Amendment, and this Court has twice since needed to clarify its application in the Section 922 context. *See United States v. Rahimi*, 602 U.S. 680 (2024); *Hemani*, 146 S. Ct. at 1685. But uncertainty still remains around the most critical and widely applying of section 922(g)’s subsections. This question needs to be answered, and this Court should ensure that all citizens receive the full extent of their Second Amendment rights, regardless of geography.

II. This Court has granted certiorari in *United States v. Beaird* on the question of whether *Stinson v. United States*, 508 U. S. 36 (1993), still correctly states the rule for the deference that courts must give the commentary to the Sentencing Guidelines.

The question of *Stinson*'s continued authority has been percolating in the circuit courts since *Kisor*. All circuits have addressed applications of this question. Some find that *Kisor* upended *Stinson*. See, e.g., *United States v. Mitchell*, 120 F.4th 1233, 1239-40 (4th Cir. 2024); *United States v. Dupree*, 57 F.4th 1269, 1275 (11th Cir. 2023) (en banc); *United States v. Castillo*, 69 F.4th 648, 656 (9th Cir. 2023); *United States v. Nasir*, 17 F.4th 459, 471 (3d Cir. 2021); *United States v. Riccardi*, 989 F.3d 476, 484-85 (6th Cir. 2021). Others remain steadfast that *Stinson* is unaffected by *Kisor*. *United States v. White*, 97 F.4th 532, 538-39 (7th Cir. 2024); *United States v. Vargas*, 74 F.4th 673, 680-83 (5th Cir. 2023) (en banc); *United States v. Maloid*, 71 F.4th 795, 805-09 (10th Cir. 2023).

This question is important not only because there is a split, but also because of the serious questions raised concerning when—and how—to defer to Guidelines Commentary. These questions are further implicated by this Court's recent decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), but have not yet been authoritatively addressed. Only this Court can answer whether reliance on an agency's commentary to an otherwise ambiguous Guideline is appropriate when it serves to enhance a defendant's sentence.

By granting certiorari of *Beaird*, this Court appears poised to answer that question. If the answer is that *Kisor* abrogated *Stinson*, and deference to the Guidelines Commentary has changed, then Petitioner wishes to preserve his

sentencing arguments for subsequent review in a post-*Beaird* legal landscape. Thus, on the second issue, Petitioner requests this Court hold his petition for a writ of certiorari pending resolution of *United States v. Beaird*, No. 24-10764 (scheduled for October 13, 2026 calendar). If appropriate, this Court should then grant certiorari in this case, vacate the court of appeals' judgment, and remand his case for further consideration in light of *Beaird*. As Justice Scalia noted, "We regularly hold cases that involve the same issue as a case on which certiorari has been granted and plenary review is being conducted *in order that* (if appropriate) they may be 'GVR'd' when the case is decided." *See Stutson v. United States*, 516 U.S. 163, 181 (1996) (Scalia, J., dissenting) (emphasis in original). Petitioner respectfully suggests such a procedure would be appropriate here.

CONCLUSION

Petitioner asks this Court to grant certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit, or if it does so in another case to decide the above issues, then to hold the instant Petition pending the outcome.

Respectfully submitted.

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APPENDIX

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PUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-4041

UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

JERONE TYRELL HOLMAN,

Defendant – Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. William L. Osteen, Jr., District Judge. (1:24-cr-00113-WO-1)

Argued: January 28, 2026

Decided: March 27, 2026

Before WILKINSON, Circuit Judge, FLOYD, Senior Circuit Judge, and David J. NOVAK, United States District Judge for the Eastern District of Virginia, sitting by designation.

Affirmed by published opinion. Judge Wilkinson wrote the opinion, in which Senior Judge Floyd and Judge Novak joined.

ARGUED: Margaret McCall Reece, FOX ROTHSCHILD LLP, Greensboro, North Carolina, for Appellant. Karla E. Painter, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee. **ON BRIEF:** Kaitlyn K. Brenner, FOX ROTHSCHILD LLP, West Palm Beach, Florida, for Appellant. Clifton T. Barrett, United States Attorney, Kyle D. Pousson, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

WILKINSON, Circuit Judge:

Jerone Holman was sentenced to 66 months in prison for possessing a firearm and ammunition as a felon. He now challenges that result on several grounds: that his conviction violates the Second Amendment, that his sentence erroneously reflects a large-capacity magazine enhancement, and that his sentence is unreasonable. We reject all three arguments. Along the way, we revisit the standards governing plain error review under Federal Rule of Criminal Procedure 52(b).

I.

Around two in the morning one day in 2023, Holman crashed his car. When the police found him on the side of the highway, Holman admitted he had been drinking. Then, when the officers searched the crash scene, they found a vodka bottle and a handgun loaded with a magazine lying on the ground ten or fifteen feet away from the car. In the front seat of the car, they found a second magazine that matched the first one and also fit inside the gun. The gun had been reported stolen.

Since Holman had two felonies on his record, he was charged with possession of a firearm and ammunition by a felon in violation of 18 U.S.C. § 922(g)(1). He sought to dismiss the indictment on the ground that § 922(g)(1) violated the Second Amendment, but the district court rejected his argument. Holman then pled guilty while reserving his right to appeal the constitutional issue.

The presentence report (PSR) prepared by the U.S. Probation Office noted that the magazines and firearm recovered from the crash scene “contained a total of 32 rounds” of ammunition, meaning that, by necessary implication, “at least one of the magazines had a

capacity exceeding 15 rounds.” J.A. 162. On this basis, the PSR classified Holman’s offense as one involving a “semiautomatic firearm that is capable of accepting a large capacity magazine.” U.S. Sent’g Guidelines Manual § 2K2.1(a)(3) (U.S. Sent’g Comm’n 2023). That classification dictated his base offense level under the Sentencing Guidelines.

Holman did not object. In fact, when the district court asked if Holman had reviewed the PSR with counsel and “agree[d]” with it, he responded “[y]es, I have,” and “[y]es, sir, I do.” J.A. 99–100. The court proceeded to adopt the PSR without change and sentenced Holman to 66 months in prison.

This appeal followed.

II.

First we address the constitutional arguments Holman preserved below. As he sees things, the felon-in-possession prohibition in 18 U.S.C. § 922(g)(1) violates the Second Amendment both facially and as applied to him. We consider these arguments *de novo*, *United States v. Jacobs*, 166 F.4th 395, 398 (4th Cir. 2026), but they “merit little discussion” because they run headlong into our precedent, *id.* at 399.

A.

As to Holman’s facial challenge, it is foreclosed by *United States v. Canada*, 123 F.4th 159 (4th Cir. 2024). In that case, a panel of this court considered the constitutionality of § 922(g)(1) in light of *District of Columbia v. Heller*, 554 U.S. 570 (2008), *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022), and *United States v. Rahimi*, 602 U.S. 680 (2024). The panel concluded the provision “has a plainly legitimate sweep.” *Canada*, 123 F.4th at 161 (quoting *Wash. State Grange v. Wash. State Republican Party*, 552 U.S.

442, 449 (2008)). Since “one panel cannot overrule another,” the question is now settled. *McMellon v. United States*, 387 F.3d 329, 333 (4th Cir. 2004) (en banc).

B.

As to Holman’s as-applied challenge, it is foreclosed by *United States v. Hunt*, 123 F.4th 697 (4th Cir. 2024). In that case, a panel of this court rejected as-applied challenges to § 922(g)(1) except where (1) the defendant’s “felony conviction is pardoned or [(2)] the law defining the crime of conviction is found unconstitutional or otherwise unlawful.” *Id.* at 700 (quoting *Hamilton v. Pallozzi*, 848 F.3d 614, 626 (4th Cir. 2017)). Holman does not contend that he falls into either exception. Without more, there is nothing to his claim.

Holman tries to chart a course around *Hunt* by arguing that it did not address the kind of as-applied challenge he brings here. But *Hunt*’s holding was not limited to particular kinds of as-applied challenges. To the contrary, *Hunt* explained in categorical terms that this court rejects, aside from the two exceptions above, “the need for any case-by-case inquiry about whether a felon may be barred from possessing firearms.” *Id.* at 704.

Holman is not the first felon-in-possession defendant who has sought to avoid *Hunt*. Time and again others have tried, and time and again we have rejected their efforts. *See, e.g., United States v. Beaufort*, No. 25-4358, 2026 WL 195427, at *1 (4th Cir. Jan. 26, 2026) (per curiam); *United States v. Logan*, No. 24-4421, 2026 WL 66744, at *1 (4th Cir. Jan. 8, 2026) (per curiam); *United States v. Heaggeans*, No. 25-4141, 2025 WL 3082286, at *1 (4th Cir. Nov. 4, 2025) (per curiam); *United States v. Rosell*, No. 25-4152, 2025 WL 4061611, at *1 (4th Cir. Oct. 16, 2025). Let there now be no doubt: the rule announced in *Hunt* covers *all* as-applied challenges to § 922(g)(1).

C.

Even if *Hunt* did not resolve Holman's as-applied challenge, we would still conclude his claim has no merit. The Constitution permits the government to disarm him.

Our two-step analytical framework is supplied by *Bruen*. At step one, we ask whether "the Second Amendment's plain text covers" the conduct at issue. *Bruen*, 597 U.S. at 24. At step two, we ask whether the law regulating that conduct "is consistent with the Nation's historical tradition of firearm regulation." *Id.*

The conduct at issue here is possession of a firearm and ammunition by someone with Holman's criminal record, so we take a moment to recount it. In 2010, Holman stole \$1,000 worth of cash and electronics by holding a person at gunpoint. He was convicted of felony robbery with a dangerous weapon and served three years in prison for it. Then, in 2015, he was found with a gun with an obliterated serial number. He was convicted of possession of a firearm by a felon—itself a felony—and served two years in prison for that.

While on supervised release for the felon-in-possession conviction, Holman repeatedly used alcohol and drugs, attempted to circumvent alcohol monitoring technology, and failed to complete office visits and substance abuse treatment. His violations were so problematic that his term of supervised release was extended once and revoked twice, causing him to be sentenced to another two and a half years in prison. And in 2020, Holman was convicted of misdemeanor driving while impaired and sentenced to another 30 days imprisonment for that.

After spending the better part of a decade in prison for gun-related crimes and knowing that the law forbade him from acquiring another gun, Holman did so anyways.

This time, his gun was stolen (either by Holman or by someone else), and Holman drove around with it fully loaded at two in the morning after he had been drinking.

Does “the Second Amendment’s plain text” protect the right of someone with this record to keep and bear arms? *Bruen*, 597 U.S. at 24. Under our precedent, the answer is “no.” The Amendment protects the right of “the people.” U.S. Const. amend. II. The Supreme Court has described this group as including “law-abiding, responsible citizens,” *Heller*, 554 U.S. at 635, and we have taken that instruction to delineate the group’s outer bounds at *Bruen* step one, *United States v. Price*, 111 F.4th 392, 400 (4th Cir. 2024) (en banc) (“[T]he limitations on the Second Amendment right identified by *Heller* are inherent in the meaning of ‘the right of the people’”); *see also Hunt*, 123 F.4th at 705.

“However the Supreme Court may come to define a ‘law-abiding responsible citizen’ for Second Amendment purposes, [Holman] surely would not fall within that group.” *United States v. Moore*, 666 F.3d 313, 319 (4th Cir. 2012). His first felony, North Carolina robbery with a dangerous weapon, is a “violent felony” within the meaning of the Armed Career Criminal Act, *United States v. Burns-Johnson*, 864 F.3d 313, 315 (4th Cir. 2017), and a “crime of violence” within the meaning of the Sentencing Guidelines, *United States v. Pittman*, 728 F. App’x 197, 198–99 (4th Cir. 2018) (per curiam). In historical terms, it is also the type of “crime[] against the person” thought to “speak directly to whether an individual is dangerous.” *United States v. Williams*, 113 F.4th 637, 658 (6th Cir. 2024). This violent crime, considered alongside Holman’s long train of drug, alcohol, and gun-related violations, reveals a persistent disregard for the rule of law and for the safety of others.

Holman’s disarmament is also consistent with our nation’s traditions at *Bruen* step two. “Since the founding, our Nation’s firearm laws have included provisions preventing individuals who threaten physical harm to others from misusing firearms.” *Rahimi*, 602 U.S. at 690. The Supreme Court in *Rahimi* identified two such types of Founding-era laws: surety laws and “going armed” laws. *Id.* at 695–98. Shortly after, we identified another: laws disarming “groups of persons that the legislature deemed ‘potentially violent or dangerous.’” *United States v. Jackson*, 152 F.4th 564, 577 (4th Cir. 2025) (quoting *Hunt*, 123 F.4th at 707).

Like Founding-era surety laws, § 922(g)(1) as applied to Holman is “a mechanism for preventing violence before it occur[s].” *Rahimi*, 602 U.S. at 697. Like Founding-era “going armed” laws, § 922(g)(1) as applied to Holman is “a mechanism for punishing [someone] who ha[s] menaced others with firearms.” *Id.* And like Founding-era laws that disarmed categories of persons deemed suspect, § 922(g)(1) as applied to Holman ensures that we do not “let[] guns fall into criminal hands.” *Jackson*, 152 F.4th at 577. In all these ways, § 922(g)(1) as applied to Holman echoes the “[w]hy and how” of our historical tradition of firearm regulation. *Rahimi*, 602 U.S. at 692.

Between *Canada*, *Hunt*, and the *Bruen* two-step, Holman’s Second Amendment challenge to his conviction fails multiple times over.

III.

Next we address an argument Holman raises for the first time on appeal: that the district court should not have applied § 2K2.1(a)(3) of the Sentencing Guidelines (the “large capacity magazine” provision). Holman did not object to the provision’s application

below, and indeed told the district court that he “agree[d]” with it, J.A. 99–100, so we consider the argument under a plain error standard of review, *Molina-Martinez v. United States*, 578 U.S. 189, 193–94 (2016).

We conclude there was no error, much less one that would warrant reversal.

A.

At the foundation of our plain error analysis lies the contemporaneous objection rule. When “a litigant believes that an error has occurred (to his detriment) during a federal judicial proceeding, he must object in order to preserve the issue.” *Puckett v. United States*, 556 U.S. 129, 134 (2009). “No procedural principle”—or procedural rule—“is more familiar.” *Yakus v. United States*, 321 U.S. 414, 444 (1944).

Contemporaneous objections serve many salutary functions. If a district court agrees with a claim of error raised in an objection, it may remedy the error immediately and thereby “avoid the delay and expense of a full appeal.” *Puckett*, 556 U.S. at 140. If the court disagrees with the claim of error, it may at least create a record that will facilitate effective appellate review. In either case, the trial judge is given the opportunity to apply his instincts to the question. His familiarity with the proceedings in front of him makes him the most practiced and informed decisionmaker.

Forfeiture is the rule’s enforcement mechanism. By default, failure to object to an error in the district court “precludes the raising on appeal of the unpreserved claim.” *Id.* at 135. The threat of forfeiture keeps counsel “on his toes,” motivating him to object to any potential errors. *United States v. Vonn*, 535 U.S. 55, 73 (2002). It also deters counsel from strategically remaining quiet and then raising an objection only if his client loses the case,

a tactic known as “sandbagging.” *Puckett*, 556 U.S. at 134. And it furthers finality, that underappreciated virtue on which the stability of our judicial system relies.

Of course, the contemporaneous objection rule presents risks in addition to benefits. One risk is that counsel will act like a jack-in-the-box, jumping to his feet with objections more often than is necessary. This kind of lawyering disserves the client and “completely disrupts the rhythm of the proceedings.” *United States v. Moore*, 769 F.3d 264, 268 (4th Cir. 2014) (making a similar point with respect to motions during trial).

Another more serious risk is the possibility of grave injustice. In the heat of trial, counsel cannot be expected to lodge objections with the thoughtfulness and precision he could bring to a written brief. He might on occasion, for no reason other than a lapse of attention, fail to object to an error that really matters. If courts of appeals were too “rigid and undeviating” about forfeiture, and we “invariably and under all circumstances decline[d] to consider” claims of error not raised below, there would be no way to correct the rare but all too real “miscarriage of justice.” *Hormel v. Helvering*, 312 U.S. 552, 557–58 (1941).

Federal Rule of Criminal Procedure 52(b) resolves these tensions. It provides that courts of appeals “may” consider a forfeited error, but only when it is a “plain error that affects substantial rights.” Fed. R. Crim. P. 52(b). By authorizing a limited exception to our standard practice for “particularly egregious errors,” Rule 52(b) preserves the benefits of the contemporaneous objection rule while minimizing its attendant risks. *United States v. Frady*, 456 U.S. 152, 163 (1982). It also privileges the on-the-spot decisionmaking

capacity of the trial judge without shutting the door entirely to appellate review. Each rung in our hierarchical judicial system is given its due.

The Supreme Court explained in *United States v. Olano*, 507 U.S. 725 (1993), how Rule 52(b) should work in practice. It involves a four-prong test. When there is (1) an “error” (2) that is “plain” and (3) that “affect[s] substantial rights,” a court of appeals may consider it. *Id.* at 732 (alteration in original). Whether to correct the error nevertheless remains “within the sound discretion of the court,” *id.*, and the court should exercise that discretion only when (4) the error “seriously affect[s] the fairness, integrity[,] or public reputation of judicial proceedings,” *id.* (alteration in original) (quoting *United States v. Young*, 470 U.S. 1, 15 (1985)). The defendant has the burden of persuasion at each prong. *Greer v. United States*, 593 U.S. 503, 508 (2021).

Although there are four distinct prongs to *Olano*, the inquiry is a holistic one. The underlying question for the court of appeals is whether there are “exceptional circumstances” justifying a departure from the standard objection and forfeiture rules. *United States v. Atkinson*, 297 U.S. 157, 160 (1936). Because correction of an unpreserved error is “not a run-of-the-mill remedy,” courts should provide it “sparingly.” *Fraday*, 456 U.S. at 163 n.14 (quoting *United States v. Gerald*, 624 F.2d 1291, 1299 (5th Cir. 1980)). “Meeting all four prongs is difficult, ‘as it should be.’” *Puckett*, 556 U.S. at 135 (quoting *United States v. Dominguez Benitez*, 542 U.S. 74, 83 n.9 (2004)).

B.

Holman’s effort fails at the first prong. There was no error in the proceedings here.

Holman believes the district court erred by applying § 2K2.1(a)(3) of the Sentencing Guidelines when calculating his base offense level. This provision applies by its terms to offenses that “involve[]” a “semiautomatic firearm that is capable of accepting a large capacity magazine.” U.S. Sent’g Guidelines Manual, *supra*, at § 2K2.1(a)(3). He offers two reasons why it should not apply here. First, he says there is no evidence that either of the magazines recovered from his crash scene was “large capacity.” Second, he says there is no evidence that the gun recovered was “capable of accepting” them. We take each argument in turn.

1.

In addressing Holman’s “large capacity” argument, we must first decide what “large capacity” means. We need not do so on a blank slate, however, because the Sentencing Commission has offered its own definition in the commentary to the guidelines. We should defer to this definition if (1) § 2K2.1(a)(3) is “genuinely ambiguous,” (2) the definition is “reasonable,” and (3) “the character and context of the [Sentencing Commission’s] interpretation entitles it to controlling weight.” *Kisor v. Wilkie*, 588 U.S. 558, 574–76 (2019); *see also United States v. Mitchell*, 120 F.4th 1233, 1238–41 (4th Cir. 2024) (establishing that *Kisor* is the appropriate framework for deference to Sentencing Commission commentary).

To begin, we join the Third and Ninth Circuits in concluding that “large capacity” in § 2K2.1(a)(3) is genuinely ambiguous. *United States v. McIntosh*, 124 F.4th 199, 207 (3d Cir. 2024); *United States v. Trumbull*, 114 F.4th 1114, 1118 (9th Cir. 2024). “Large” can mean “exceeding most other things of like kind [] in quantity or size,” which would

suggest that it matters how many rounds “most other” magazines can accommodate. *Large*, Merriam-Webster Online Dictionary (last visited Mar. 4, 2026). But “large” can also mean “dealing in great numbers or quantities,” which would suggest a number of rounds that is simply high on its own, irrespective of most other magazines. *Id.* The text of § 2K2.1 does not reveal which meaning is at play or, if it is the second meaning, how many rounds would be sufficiently high.

The provision’s history and purpose do little to resolve this ambiguity. Prior to 2006, § 2K2.1(a)(3) applied to offenses that involved a “semiautomatic assault weapon” as defined in a 1994 law. U.S. Sent’g Guidelines Manual, *supra*, at app. C, vol. III, amend. 691; Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, § 110102(b)(30), 108 Stat. 1796, 1997. When the 1994 law expired, § 2K2.1(a)(3) was amended and the reference to a “semiautomatic assault weapon” was replaced with “a semiautomatic firearm capable of accepting a large capacity magazine.” The Sentencing Commission said the new language was intended to cover firearms that could, like semiautomatic assault weapons, “fire many rounds without reloading,” which makes them more dangerous than other firearms. U.S. Sent’g Guidelines Manual, *supra*, at § 2K2.1 cmt. n.2. While the Commission’s reference to “many rounds” suggests that the “large” in “large capacity” might mean “dealing in great numbers or quantities,” it still does nothing to clarify how many rounds is the relevant threshold.

The Third Circuit has offered a compelling explanation: “[T]here simply is no such thing as a ‘large capacity magazine.’ It is a regulatory term created by the State, meaning no more than the maximum amount of ammunition the State has decided may be loaded

into any firearm at one time.” *McIntosh*, 124 F.4th at 207 (quoting *Ass’n of N.J. Rifle & Pistol Clubs v. Att’y Gen.*, No. 19-3142, 2022 WL 22860232, at *4 (3d Cir. Aug. 25, 2022) (Matey, J., dissenting)).

Having concluded the term is ambiguous, we turn to the definition offered in the Sentencing Guidelines commentary: a large capacity magazine is one that can “accept more than 15 rounds.” U.S. Sent’g Guidelines Manual, *supra*, at § 2K2.1 cmt. n.2. Like the Third and Ninth Circuits, we conclude this definition is reasonable. At least 12 states regulate the possession of large capacity magazines, and all of them except one define “large capacity” as more than 10 or 15 rounds. *McIntosh*, 124 F.4th at 210 n.8; *Trumbull*, 114 F.4th at 1119 & nn.3–6. In its now-expired 1994 law, Congress itself defined “large capacity” as more than 10 rounds. Violent Crime Control and Law Enforcement Act § 110103(b)(31)(A), 108 Stat. at 1999. Given the number of definitions that use 10 rounds, the use of 15 here is especially cautious. At the very least, 15 falls within the “zone of ambiguity” created by § 2K2.1(a)(3). *Kisor*, 588 U.S. at 576.

10 and 15 were evidently chosen as thresholds because Congress and many state legislatures believed that criminals who could fire that many rounds without needing to reload presented a special danger. Maryland, for example, banned magazines with more than 10 rounds because it concluded that “more shots are fired and more fatalities and injuries result” when these magazines are used. *Kolbe v. Hogan*, 849 F.3d 114, 127 (4th Cir. 2017) (en banc), *abrogated on other grounds by Bruen*, 591 U.S. 1. California did the same because it concluded that they “enable mass killings.” *Duncan v. Bonta*, 133 F.4th 852, 863 (9th Cir. 2025) (en banc). It would be presumptuous for courts to declare that the

Sentencing Commission's choice of 15 was unreasonable in the face of a nearly equivalent legislative consensus.

Finally, we conclude that the "character and context" of the Sentencing Commission's definition do indeed "entitle[] it to controlling weight." *Kisor*, 588 U.S. at 576. This step in the *Kisor* inquiry is intended to determine based on the totality of the circumstances whether deference is appropriate. The answer will usually be "yes" when the Sentencing Commission's commentary is at issue. The commentary is published in the Sentencing Guidelines Manual and cannot be promulgated without an affirmative vote of the Commission's governing body, rendering it far more significant than merely an internal memorandum or post-hoc litigating position. U.S. Sent'g Comm'n R. Prac. & Proc. 2.2(b). It is instead the Commission's "authoritative" position. *Kisor*, 588 U.S. at 577. Moreover, it is the Commission's position on matters at the center of its obligation to "determine the relative severity of federal crimes." *Mistretta v. United States*, 488 U.S. 361, 377 (1989); *see also Stinson v. United States*, 508 U.S. 36, 45 (1993) ("[T]he commentary represent[s] the most accurate indications of how the Commission deems that the guidelines should be applied."). As a result, the commentary almost by definition "implicate[s] [the Commission's] substantive expertise." *Kisor*, 588 U.S. at 577.

Given the intensive process required to promulgate the commentary, it also, in most cases, reflects the Commission's "fair and considered judgment." *Id.* at 579. It certainly does here, where the "more than 15 rounds" definition appeared in the Federal Register for public notice and comment before it was submitted to Congress for review. 71 Fed. Reg.

4782, 4789 (Jan. 27, 2006); 71 Fed. Reg. 28063, 28069 (May 15, 2006). These features render it a heartland example of an agency interpretation to which deference is appropriate.

All that remains is deciding whether Holman possessed a magazine that met the definition in the Commission’s commentary—that is, a magazine that could accept more than 15 rounds. We conclude that he did. Recall that two magazines were recovered from his crash scene. While the record does not reveal exactly how many rounds each magazine contained, the government’s statement of facts at sentencing said that a total of 31 rounds was recovered from the two magazines, J.A. 77–78, and the PSR added that 32 rounds were recovered from “[t]he magazines and firearm,” J.A. 162. The most logical conclusion from these statements, considered together, is that one round was located in the gun’s firing chamber and that 31 rounds were dispersed between the two magazines. One of the magazines therefore must have held more than 15 rounds.

2.

Holman contends that even if one of the magazines he possessed was “large capacity,” it was still error to apply § 2K2.1(a)(3) because there is no evidence his gun was “capable of accepting” it. He takes particular issue with the Sentencing Commission’s commentary, which defines a firearm “capable of accepting” a magazine as a firearm with the magazine “attached to it” or “in close proximity to” it “at the time of the offense.” U.S. Sent’g Guidelines Manual, *supra*, at § 2K2.1 cmt. n.2.

We need not consider the precise meaning of “capable of accepting” or the reasonableness of the commentary’s interpretation, however, because Holman’s gun was quite obviously capable of accepting both his magazines. The record states that the gun

was loaded with one of the magazines at the time it was discovered, and that the other magazine “matched” the gun, J.A. 162, and “fit inside” it, J.A. 77. Holman has not contested these facts. Whatever the definition of a firearm that is “capable of accepting” a magazine, it surely covers a firearm that can be loaded with the magazine and that “matche[s]” and “fit[s]” the magazine.

C.

Holman’s effort alternatively fails at the second prong of *Olano*. Even if there was an error in the application of § 2K2.1(a)(3), the error was not plain.

In the context of Rule 52(b), “plain” means “clear or obvious, rather than subject to reasonable dispute.” *Puckett*, 556 U.S. at 135. The point of the plainness requirement is to identify errors so beyond debate that “the trial judge and prosecutor were derelict in countenancing” them even without being put on notice by an objection. *Fradley*, 456 U.S. at 163. “This standard is satisfied when the settled law of the Supreme Court or this circuit establishes that an error has occurred.” *United States v. Neal*, 101 F.3d 993, 998 (4th Cir. 1996) (internal quotation marks omitted) (citation omitted).

If the firearm at Holman’s crash scene was not “capable of accepting a large capacity magazine” within the meaning of § 2K2.1(a)(3), it is not because the settled law of the Supreme Court or this circuit has said so. We are not aware of any Supreme Court decisions or authoritative Fourth Circuit decisions interpreting the phrase. Evidently Holman is not aware of authoritative precedent in his favor either, because the only relevant decisions he points to are ones outlining general rules about when it is appropriate to defer to the Sentencing Commission’s commentary. While Holman might disagree with our conclusion

that the rules make deference appropriate here, deference is certainly not so inappropriate as to be clearly and obviously so.

D.

We now arrive at the third and fourth prongs of *Olano*, where presumptions by the Supreme Court inform our analysis.

The third prong of *Olano* asks whether a plain error “affec[ted] substantial rights.” *Olano*, 507 U.S. at 734. In most cases, a plain error affects substantial rights only if it was “prejudicial,” meaning it “affected the outcome of the district court proceedings.” *Id.* In other words, “but for [the error claimed,] the result of the proceeding would have been different.” *Dominguez Benitez*, 542 U.S. at 82 (alteration in original) (citation omitted).

When the error is a miscalculation of the defendant’s Sentencing Guidelines range, the Supreme Court has dictated a presumption: “the error itself can, and most often will, be sufficient to show a reasonable probability of a different outcome absent the error.” *Molina-Martinez*, 578 U.S. at 198. “There may be instances,” however, “when, despite application of an erroneous Guidelines range, a reasonable probability of prejudice does not exist.” *Id.* at 200. “[F]or example,” the record in a case may show that “the district court thought the sentence it chose was appropriate irrespective of the Guidelines range.” *Id.*

The fourth prong of *Olano* asks whether, if there was a plain error that affected substantial rights, it “seriously affect[ed] the fairness, integrity or public reputation of judicial proceedings.” *Olano*, 507 U.S. at 736. This prong gives meaning to the word “may” in Rule 52(b), providing courts of appeals “broad discretion in determining whether a remand . . . is necessary” even when the first three *Olano* factors have been met. *Molina-*

Martinez, 578 U.S. at 204. If courts skipped over this prong or gave it short shrift, “the discretion afforded by Rule 52(b) would be illusory.” *Olano*, 507 U.S. at 737.

In keeping with its discretion-enhancing function, this prong “is meant to be applied on a case-specific and fact-intensive basis.” *Puckett*, 556 U.S. at 142. When the Supreme Court has applied it, it has several times found that a plain error that affected substantial rights should be not be corrected when “overwhelming” and “essentially uncontroverted” evidence supported the outcome below. *Johnson v. United States*, 520 U.S. 461, 470 (1997); *United States v. Cotton*, 535 U.S. 625, 632–33 (2002); accord *United States v. Marcus*, 560 U.S. 258, 265–66 (2010). In such cases, the “real threat” to the fairness, integrity, and public reputation of judicial proceedings would in fact have been reversal. *Cotton*, 535 U.S. at 634. We have also found relevant the “good faith” of those responsible for the error, *United States v. Baldovinos*, 434 F.3d 233, 242 (4th Cir. 2006), and their “collective conduct” during the proceedings, *United States v. Garrett*, 141 F.4th 96, 112 (4th Cir. 2025).

Like in the third prong, however, there is a presumption at play in the fourth prong. When the error is a miscalculation of the defendant’s Sentencing Guidelines range, “such an error will in the ordinary case[] . . . seriously affect the fairness, integrity, or public reputation of judicial proceedings, and thus will warrant relief.” *Rosales-Mireles v. United States*, 585 U.S. 129, 132 (2018). Unless, however, “countervailing factors” overcome the presumption. *Id.* at 142.

Presumptions of course assist the appellate court, but do not in the end relieve it of its obligation to conduct under *Olano* a holistic review of the sentencing proceedings. This

court has for years underscored the need for careful and measured judgment in such proceedings. *See, e.g., United States v. Fowler*, 58 F.4th 142, 153 (4th Cir. 2023) (“The [district] court must [] conduct ‘an individualized assessment based on the facts before the court.’” (quoting *United States v. Lewis*, 958 F.3d 240, 243 (4th Cir. 2020))). Where district courts approach their important sentencing responsibilities with sensitivity to the task before them, the last thing they deserve is a reversal, especially when the asserted error was never once brought to their attention.

The sentencing proceedings below bore the earmarks of conscientious consideration. They reflected credit, not discredit, on the fairness, integrity, and public reputation of judicial proceedings generally. When the defendant pled guilty, the district judge took considerable care—as every judge should—to explain the consequences of that choice and confirm it was voluntary. When the defendant returned to the courtroom for sentencing, the judge gave him a meaningful opportunity—as every judge should—to tell his story and make his case. That the sentence imposed was ultimately serious does not mean that the process was in any way unfair.

Nor does it mean that the sentence itself was unfair. The district court was faced with a defendant who spent nearly a decade in and out of jail for gun-related offenses, including a crime of violence, and was consistently unable to learn his lesson. “How much time” in jail, the court asked Holman directly, “is it going to take to make you not pick that gun up?” J.A. 116. Until Holman “starts making the decisions” to abide by the law, the court added, “these sentences are only going to get longer and longer and longer.” J.A. 121.

When the court landed on 66 months, it explained that it had carefully weighed the 18 U.S.C. § 3553(a) factors and chosen a sentence that was “sufficient but not greater than necessary” to deter Holman and protect the public. J.A. 122. We agree.

IV.

Finally, Holman challenges the reasonableness of his sentence. We review the sentence for abuse of discretion. *Gall v. United States*, 552 U.S. 38, 51 (2007). Since the sentence is within a correctly calculated Sentencing Guidelines range, it is “presumptively reasonable.” *United States v. Susi*, 674 F.3d 278, 289 (4th Cir. 2012).

According to Holman, the district court failed to consider his argument that he needed a firearm for self-defense. A district court “must address or consider all non-frivolous reasons presented for imposing a different sentence and explain why [it] has rejected those arguments,” so failure to consider a key argument would render Holman’s sentence procedurally unreasonable. *United States v. Perez-Paz*, 3 F.4th 120, 127 (4th Cir. 2021) (alteration in original) (citation omitted).

But the district court did consider Holman’s self-defense argument, and amply so. It simply rejected it. The court observed that because Holman had chosen to pick up a gun with a large capacity magazine and carry it while driving drunk at two in the morning, his self-defense narrative was “not a very compelling” one. J.A. 107. “You want to protect yourself from those people who shouldn’t be carrying guns around,” the court told him, “but you’re one of the people that shouldn’t be carrying guns around.” *Id.* In light of this consideration, Holman’s sentence is procedurally reasonable.

Holman contends his sentence is substantively unreasonable for the exact same reason, but the argument is no more availing under a different header. In light of the district court's thoughtful weighing of the § 3553(a) factors, his sentence is substantively reasonable.

V.

Each of Holman's arguments is, at bottom, an attack on the United States government's ability to control crime. In the system he envisions, Congress would not be able to prohibit violent felons from possessing guns, and the Sentencing Commission would not be able to consider whether a magazine contains more than 15 rounds when determining an appropriate punishment. Fortunately, that is not our system. Because the Constitution and the rule of law permit the government to do both, the judgment of the district court is affirmed.

AFFIRMED

United States District Court Middle District of North Carolina

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

JERONE TYRELL HOLMAN

Case Number: 1:24-CR-00113-1

USM Number: 31069-057



James Edward Quander

Defendant's Attorney

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:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18:922(g)(1) and 924(a)(8)	Felon in Possession of a Firearm and Ammunition	12/09/2023	1

The defendant is sentenced as provided in pages 1 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.

December 5, 2024

Date of Imposition of Judgment

Signature of Judge

William L. Osteen, Jr., United States District Judge

Name & Title of Judge

1/24/2025

Date

DEFENDANT: JERONE TYRELL HOLMAN
CASE NUMBER: 1:24-CR-00113-1

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: **66 months**.

☒ The court makes the following recommendations to the Bureau of Prisons: **That the defendant be designated to a facility where he may participate in substance abuse treatment, mental health counseling and treatment, vocational training to include carpentry and business and that he be designated to a facility as close to his home in Durham, North Carolina, as possible.**

☒ 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: JERONE TYRELL HOLMAN
CASE NUMBER: 1:24-CR-00113-1

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: **Three (3) 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: JERONE TYRELL HOLMAN
CASE NUMBER: 1:24-CR-00113-1

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: JERONE TYRELL HOLMAN
CASE NUMBER: 1:24-CR-00113-1

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/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 abstain from the use of any alcoholic beverages, shall not associate with individuals consuming alcoholic beverages, and shall not use any medication containing alcohol without the permission of the probation officer or a prescription from a licensed physician. The defendant shall submit to any form of alcohol testing as directed by the probation officer.

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: JERONE TYRELL HOLMAN
CASE NUMBER: 1:24-CR-00113-1

CRIMINAL MONETARY PENALTIES

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

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
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: JERONE TYRELL HOLMAN
CASE NUMBER: 1:24-CR-00113-1

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, balance due
☐ not later than _____, or
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or
- 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:

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.**

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ 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.

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA) Greensboro, North Carolina
) August 5, 2024
vs.) 11:10 a.m.
)
JERONE TYRELL HOLMAN,)
) Case No. 1:24CR113-1
Defendant.)
_____)

TRANSCRIPT OF MOTION HEARING
BEFORE THE HONORABLE WILLIAM L. OSTEEN, JR.
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: KYLE D. POUSSON
OFFICE OF THE U.S. ATTORNEY
101 S. EDGEWORTH STREET, 4TH FLOOR
GREENSBORO, NORTH CAROLINA 27401

For the Defendant: JAMES QUANDER
301 N. MAIN STREET, SUITE 2020
WINSTON-SALEM, NORTH CAROLINA 27101

Court Reporter: Joseph B. Armstrong, FCRR
324 W. Market, Room 101
Greensboro, NC 27401

Proceedings reported by stenotype reporter.
Transcript produced by Computer-Aided Transcription.

PROCEEDINGS

(At 11:10 a.m., proceedings commenced.)

(Defendant present.)

THE COURT: Mr. Pousson, you may call the case.

MR. POUSSON: Thank you, Your Honor. If it should please the Court, the Government would ask to call United States versus Jerone Tyrell Holman. This is 1:24CR113-1. Mr. Holman is present with counsel, Mr. Quander. This matter is calendared for a hearing on a motion to dismiss.

THE COURT: All right. Mr. Quander, I guess it's still morning. Good morning.

MR. QUANDER: Good morning, Your Honor.

THE COURT: Are you and Mr. Holman ready to proceed?

MR. QUANDER: We are, Your Honor.

THE COURT: All right. So the issue has been pretty thoroughly briefed, and I tend to agree with the parties. There's a little bit of gray area out there in terms of these 922 offenses generally, since we moved to this historical analysis process or since the Supreme Court has moved to that historical analysis process. And so I don't know that there's a lot of argument that needs to be made, but I certainly will hear from the parties on whatever they would like to add in terms of argument.

It's not entirely clear, but it looks like, at least as alleged in the Government's responsive brief, that

1 defendant's prior felony offense is a robbery with a dangerous
2 weapon offense. Is that -- any disagreement as to that?

3 **MR. QUANDER:** No, Your Honor.

4 **THE COURT:** Mr. Quander, it's your motion. I'll hear
5 from you.

6 **MR. QUANDER:** Your Honor, I appreciate the Court's
7 thoughts preliminarily that, you know, we've briefed these
8 issues. There is a slither of a gray area, I guess, if one
9 looked at it, and there may be a more nuanced, multiple layer
10 gray area depending on what side of the fence that you fall on.
11 Obviously, the elephant in the room is that the Fourth Circuit
12 has not ruled in what would be Mr. Holman's favor at this point
13 in time, and I don't have a Fourth Circuit case that says --
14 that may mirror the conclusion of the Third Circuit and I think
15 the Eleventh Circuit at this point.

16 But what I would contend, Your Honor, just is
17 basically when you look at the plain language of the text of
18 the Second Amendment, it certainly puts Mr. Holman's case and
19 all 922(g) cases sort of, I would contend, highlighted to at
20 least look further at the context of the Second Amendment and
21 potential Second Amendment violation that we filed a motion
22 based on.

23 And then when you apply the historical analysis set
24 forth in *Bruen*, we know that it's the Government's burden to
25 prove to this Court that, number one, Mr. Holman is -- well,

1 essentially, the historical context of the regulation on felons
2 or the people not being able to possess firearms and then,
3 secondly, that the -- that is consistent with the historical
4 traditions of this country.

5 And I would contend that the Government has an uphill
6 battle in order to show that because we know that
7 historically -- if you go back to 1791 in that era,
8 historically, you know, history just changes so many things,
9 particularly the law, but in that era, folks that were
10 convicted of felonies or convicted of crimes were then required
11 to serve in the militia, and they had to possess firearms back
12 then to do their job which was some sort of punishment
13 historically.

14 And so -- and I would contend that based on a plain
15 language reading of the Second Amendment and what we know
16 historically the Government has some difficulty in proving and
17 carrying its burden.

18 I read the case that the Government cited in its
19 memorandum and recognize that the Fourth Circuit has told us
20 that the facial -- facially unconstitutional argument has
21 failed in the Fourth Circuit. I would contend that there's
22 still some gray area of interpretation, and certainly we want
23 to preserve that issue for Mr. Holman.

24 But as it relates to as applied, Mr. Pousson and I
25 had a brief conversation earlier, and it just seems like both

1 sides, and the offices on both sides are looking at, you know,
2 where that line is drawn, if you look at it from the standpoint
3 of this particular person who's been convicted of a felony.

4 As the Court mentioned, he's got a prior crime of
5 violence, and it differs from a previous argument I made where
6 my client's first felony was -- in that case was possession of
7 a firearm by an addicted person, and that was sort of a -- or a
8 drug user. That was a little, on its face, stronger.

9 But the issue here that could come up and arise, as I
10 envision potentially in the Fourth Circuit, is this distinction
11 between at what point is the person not law abiding? Is it a
12 year after completion of a sentence? Is it five years? Is it
13 10 years? Is it forever? And I would contend that, you know,
14 forever would be -- which is how we typically label felons.
15 You know, the felony convictions are -- you know, you're a
16 felon unless a conviction is pardoned or expunged is not
17 consistent with what the Constitution says when it comes to the
18 Second Amendment in this case.

19 And so we don't know where the Fourth Circuit may
20 ultimately draw the line, if it does find that there's some
21 as-applied arguments to be made or if it hears cases on
22 as-applied standard by the -- brought by defendants. But,
23 nonetheless, I would contend that he -- you know, he does have
24 a prior conviction for a crime of violence, and that was back
25 in 2010.

1 Two things, Judge, I would contend that -- I mean,
2 that was 14 years ago, and certainly there's arguments that can
3 and I think will be and should be made regarding the time.
4 Here we've got someone who's got a prior conviction that was
5 remote in time relative to right now, and then the other part
6 of it is that he was 18 years old at the time of that offense,
7 and certainly that's some factor that Courts ought to consider
8 in determining *Bruen* and the application of *Bruen* on an
9 as-applied standard.

10 Your Honor, that is my argument to this Court. I do
11 recognize, again, that the Fourth Circuit has not generated any
12 cases that would be favorable to Mr. Holman per se at this
13 point in time. I recognize that. However, with what has gone
14 on in the Fourth Circuit, just in my tenure as an attorney, I
15 don't want to leave Mr. Holman without the ability to appeal a
16 potentially adverse order in this case and act as if this is
17 not an issue that may ultimately swing at some point in time in
18 the near future or a remote future.

19 **THE COURT:** All right. Thank you.

20 **MR. QUANDER:** Thank you, Judge.

21 **THE COURT:** Mr. Pousson?

22 **MR. POUSSON:** Thank you, Your Honor. Thank you.
23 This is my least favorite kind of argument. It's a case in an
24 area of the law that appears to be shifting and changing, and
25 it's an area in which the standards are less than clear, so

1 it's really hard to tell where the Courts may ultimately draw
2 lines.

3 However, we have made -- advanced several arguments,
4 both in this case and related cases, that I think are
5 consistent with some of the things we see in the changing case
6 law. We've argued, Your Honor, when we talk about the first
7 prong of *Bruen*, kind of the scope of people that are protected,
8 that felons might fall outside that scope. Because when we
9 talk about the people that are referred to in the Second
10 Amendment, there's some dispute as to whether that term refers
11 to all of the people or to the body politic, the people who
12 could vote or hold rights and that since historically felons
13 could be deprived of these rights to participate in the
14 political process, they might fall outside the scope of those
15 protections.

16 We also look at the historical analysis under the
17 second prong. There is obviously the recent case in *Rahimi*
18 which talks about surety laws as well as going arm to the
19 terror laws that historically addressed individuals who were
20 dangerous.

21 Now, I'll acknowledge that *Rahimi* is more narrow than
22 the question that's presented here. It didn't address directly
23 whether or not felons specifically were a dangerous category
24 and could be prohibited or whether that prohibition could be
25 permanent or simply temporary as was the case in *Rahimi*.

1 But the Government has argued, and I think continues
2 to argue, that 922(g)(1) is based in a reasonable determination
3 by the Legislature that felons present a special danger for the
4 misuse of firearms, that as a category felons are -- it would
5 be dangerous to allow them to possess firearms whole cloth.

6 There's also obviously the language that we see both
7 in *Heller* and then in some of the concurrences in *Rahimi* which
8 talk about the longstanding tradition -- history of prohibiting
9 certain categories of people and felons are mentioned
10 specifically. So it seems, at least initially, as this change
11 started changes to firearm regulations against felons was not
12 kind of the anticipated goal, although I recognize that when
13 that question is squarely before the Court things could change.

14 But from all that we have to look at now, it seems
15 like there are -- that a prohibition on individuals who have
16 violent prior convictions that are felonies is consistent with
17 whatever standard the Court might come up, and I think that's
18 the conclusion that we can draw from the Fourth Circuit's
19 recent *Canada* case. It unhelpfully doesn't point to which
20 standard we should be applying in this case, but it does say
21 that under whichever one of these standards that's applied
22 there are certain types of crimes that can clearly -- that
23 clearly prohibit an individual from possessing firearms. Those
24 examples they gave are all violent felonies, and, I believe,
25 consistent with the type of violent felony we see here today.

1 And so the Government's position here is simply that
2 just as those -- under whichever standard applies, just as
3 those conviction -- those priors the Fourth Circuit tells us
4 are clearly able to prohibit an individual from possessing a
5 firearm, that Mr. Holman's prior conviction for robbery with a
6 dangerous weapon.

7 And under the circumstances that we have here, under
8 whichever standard it is, whether it's because he falls outside
9 the body politic of people because of his prior felony
10 conviction, or because there's a historical tradition of
11 prohibiting dangerous individuals from possessing firearms, or
12 because 922(g) and the regulations against felons with firearms
13 is simply just rooted deeply in our nation's history and
14 traditions, whichever standard we use, this particular prior
15 seems to fall within that.

16 And so as applied to Mr. Holman, we'd ask the Court
17 to deny his motion to dismiss.

18 **THE COURT:** All right. Thank you. Well, there are
19 definitely some changes taking place within the 922(g) context,
20 and it's a little bit complicated actually with all the
21 historical analysis being applied these days.

22 In terms of the motion in this particular case, I
23 certainly think the motion is well taken. I'm not sure if I
24 were defending anybody charged with a 922(g)(1) offense, until
25 a few things get settled, I'm not sure I wouldn't challenge the

1 statute in about every case in light of what's going on.

2 But I do think, first of all, with respect to the as
3 apply -- excuse me -- with respect to the unconstitutional on
4 its face argument, I think *Canada* does make some very good
5 points about the -- in holding that 922(g)(1) is not -- or
6 922(g) is not unconstitutional on its face -- or 922(g)(1) is
7 not unconstitutional on its face because there are -- at a
8 minimum, there are classes of felons who do constitute a
9 danger -- or can be construed to be a danger to the community
10 and, therefore, a prohibition on firearm possession is
11 consistent both with historical practice, is consistent with
12 the history, we'll say, of the possession of firearms.

13 And here with a prior robbery conviction, as
14 described, robbery with a dangerous weapon, that prior
15 conviction appears to me to fall squarely within that category,
16 similarly to the *Canada* case.

17 I don't mind saying that -- at least with respect to
18 the argument of who does "we the people" refer to, I really
19 don't have a problem with saying that "we the people" refers to
20 all citizens, period. But I also think it is a corollary of
21 that that people can be excluded from that group of citizens
22 contemplated by the "we the people."

23 I think -- I think historically as the discussions
24 point out, there are people deprived of certain constitutional
25 rights historically upon conviction. So where -- but where the

1 analysis ultimately ends up, we'll have to wait and see what
2 the Supreme Court.

3 I think the tougher issue is whether or not there
4 are -- like the issue addressed by the circuit, it's whether or
5 not there are felonies which, for one reason or another, I
6 don't support any kind of finding a reasonable belief that
7 violence would be associated with it. Similar, you know, there
8 are, at least there were, two-year misdemeanor offenses that
9 constituted felonies under federal law that don't suggest or
10 are not predictive of any kind of violent crimes in the future.

11 But, on the other hand, an individual who is willing
12 to and intentionally engages in conduct that violates the law
13 presents a different -- falls in a different category of
14 citizen in terms of not following the rules, and that -- no
15 matter what the instance is of not following the rules, whether
16 violent or nonviolent felony or whatever that criminal history
17 is, it's a criminal history that suggests some level of
18 heightened dangerousness.

19 One of the factors we have to consider under 18 USC
20 Section 3553 is the need to protect the public from further
21 crimes of the defendant, and that -- that's true across the
22 board in felony cases, violent or nonviolent. So there's a
23 recognition -- I would say a longstanding recognition within
24 the law -- that people who commit felony offenses need to be
25 treated differently. But, regardless, judges smarter than I am

1 will ultimately figure it out and tell us what to do.

2 For purposes of this case, I do find the motion
3 should be denied, that -- with respect to the facial challenge,
4 *Canada*, at least at this point, appears to be controlling on
5 that -- on that particular point, particularly in light of that
6 additional fact as to the prior offense.

7 With respect to the as-applied challenge, I
8 understand the argument, certainly an interesting argument in
9 terms of attempting to forecast where the Supreme Court will
10 land in a few years, and I just -- I don't know the answer to
11 that but because here the prior offense does fall in that
12 category of violent offenses, I think -- I do not think
13 922(g) (1) as applied in this case is unconstitutional in light
14 of the historical information contained in the *Bruen* and
15 related cases, so the motion will be denied.

16 Anything further this morning?

17 **MR. POUSSON:** No, Your Honor.

18 **MR. QUANDER:** No, Your Honor.

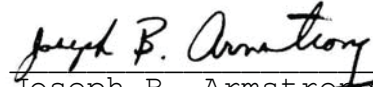
19 **THE COURT:** All right. We'll be in recess until
20 2:00.

21 (At 11:30 a.m., proceedings concluded.)
22
23
24
25

* * * * *

C E R T I F I C A T E

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled
matter.



Joseph B. Armstrong, FCRR
United States Court Reporter
324 W. Market Street
Greensboro, NC 27401

Date: 03/25/2025

United States Code Annotated
Constitution of the United States
Annotated
Amendment II. Keeping and Bearing Arms

U.S.C.A. Const. Amend. II

Amendment II. Keeping and Bearing Arms

[Currentness](#)

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.C.A. Const. Amend. II, USCA CONST Amend. II

Current through P.L. 119-102. Some statute sections may be more current, see credits for details.

End of Document

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KeyCite Red Flag

Unconstitutional or Preempted Held Unconstitutional by [United States v. Smith](#), S.D.Ill., Jan. 30, 2026



KeyCite Yellow Flag

Proposed Legislation

United States Code Annotated

Title 18. Crimes and Criminal Procedure (Refs & Annos)

Part I. Crimes (Refs & Annos)

Chapter 44. Firearms (Refs & Annos)

18 U.S.C.A. § 922

§ 922. Unlawful acts

Effective: December 23, 2024

[Currentness](#)

<For Executive Order No. 14092, “Reducing Gun Violence and Making Our Communities Safer”, see Exec. Order No. 14092, March 14, 2023, 88 F.R. 16527.>

(a) It shall be unlawful--

(1) for any person--

(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;

(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that--

(A) this paragraph and subsection (b)(3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector;

(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of [section 1715](#) of this title, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and

(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a firearm obtained in conformity with subsection (b)(3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machinegun (as defined in [section 5845 of the Internal Revenue Code of 1986](#)), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity;

(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides; except that this paragraph shall not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter;

(7) for any person to manufacture or import armor piercing ammunition, unless--

(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

(B) the manufacture of such ammunition is for the purpose of exportation; or

(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery--

(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

(B) is for the purpose of exportation; or

(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;¹

(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.

(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver--

(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age;

(2) any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;

(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of any rifle or shotgun to a resident of a State other than a State in which the licensee's place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States), and (B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(4) to any person any destructive device, machinegun (as defined in [section 5845 of the Internal Revenue Code of 1986](#)), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity; and

(5) any firearm or armor-piercing ammunition to any person unless the licensee notes in his records, required to be kept pursuant to [section 923](#) of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Attorney General.

(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if--

(1) the transferee submits to the transferor a sworn statement in the following form:

“Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are

Signature Date

and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance;

(2) the transferor has--

(A) prior to the shipment or delivery of the firearm, forwarded a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Attorney General, to the chief law enforcement officer of the transferee's place of residence, by--

(i) registered or certified mail (return receipt requested); or

(ii) verified electronic notification; and

(B)(i) with respect to a delivery method described in subparagraph (A)(i)--

(I) received a return receipt evidencing delivery of the statement; or

(II) had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; or

(ii) with respect to a delivery method described in subparagraph (A)(ii), received a return receipt evidencing delivery of the statement; and

(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under [section 923\(g\)](#).

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person, including as a juvenile--

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act ([21 U.S.C. 802](#)));

(4) has been adjudicated as a mental defective or has been committed to any mental institution at 16 years of age or older;

(5) who, being an alien--

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)\(26\)](#)));

(6) who² has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that--

(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury;

(9) has been convicted in any court of a misdemeanor crime of domestic violence;

(10) intends to sell or otherwise dispose of the firearm or ammunition in furtherance of a felony, a Federal crime of terrorism, or a drug trafficking offense (as such terms are defined in [section 932\(a\)](#)); or

(11) intends to sell or otherwise dispose of the firearm or ammunition to a person described in any of paragraphs (1) through (10).

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to [subsection \(b\) of section 925](#) is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to [subsection \(c\) of section 925](#).

(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter. No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.

(f)(1) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.

(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.

(g) It shall be unlawful for any person--

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act ([21 U.S.C. 802](#)));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien--

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)\(26\)](#)));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) who is subject to a court order that--

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence,

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.

(h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment--

(1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or

(2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.

(l) Except as provided in [section 925\(d\)](#) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to [section 923](#) of this chapter or regulations promulgated thereunder.

(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(o)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

(2) This subsection does not apply with respect to--

(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.

(p)(1) It shall be unlawful for any person to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm--

(A) that, after removal of grips, stocks, and magazines, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or

(B) any major component of which, when subjected to inspection by the types of x-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(2) For purposes of this subsection--

(A) the term “firearm” does not include the frame or receiver of any such weapon;

(B) the term “major component” means, with respect to a firearm, the barrel, the slide or cylinder, or the frame or receiver of the firearm; and

(C) the term “Security Exemplar” means an object, to be fabricated at the direction of the Attorney General, that is--

(i) constructed of, during the 12-month period beginning on the date of the enactment of this subsection, 3.7 ounces of material type 17-4 PH stainless steel in a shape resembling a handgun; and

(ii) suitable for testing and calibrating metal detectors:

Provided, however, That at the close of such 12-month period, and at appropriate times thereafter the Attorney General shall promulgate regulations to permit the manufacture, importation, sale, shipment, delivery, possession, transfer, or receipt of firearms previously prohibited under this subparagraph that are as detectable as a “Security Exemplar” which contains 3.7 ounces of material type 17-4 PH stainless steel, in a shape resembling a handgun, or such lesser amount as is detectable in view of advances in state-of-the-art developments in weapons detection technology.

(3) Under such rules and regulations as the Attorney General shall prescribe, this subsection shall not apply to the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm to determine whether paragraph (1) applies to such firearm. The Attorney General shall ensure that rules and regulations adopted pursuant to this paragraph do not impair the manufacture of prototype firearms or the development of new technology.

(4) The Attorney General shall permit the conditional importation of a firearm by a licensed importer or licensed manufacturer, for examination and testing to determine whether or not the unconditional importation of such firearm would violate this subsection.

(5) This subsection shall not apply to any firearm which--

(A) has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Attorney General and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; and

(B) is manufactured for and sold exclusively to military or intelligence agencies of the United States.

(6) This subsection shall not apply with respect to any firearm manufactured in, imported into, or possessed in the United States before the date of the enactment of the Undetectable Firearms Act of 1988.

(q)(1) The Congress finds and declares that--

(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Committee on the Judiciary the³ House of Representatives and the Committee on the Judiciary of the Senate;

(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves--even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

(I) the Congress has the power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.

(2)(A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

(B) Subparagraph (A) does not apply to the possession of a firearm--

(i) on private property not part of school grounds;

(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

(iii) that is--

(I) not loaded; and

(II) in a locked container, or a locked firearms rack that is on a motor vehicle;

(iv) by an individual for use in a program approved by a school in the school zone;

(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

(vi) by a law enforcement officer acting in his or her official capacity; or

(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

(3)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone.

(B) Subparagraph (A) does not apply to the discharge of a firearm--

(i) on private property not part of school grounds;

(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

(iv) by a law enforcement officer acting in his or her official capacity.

(4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.

(r) It shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under [section 925\(d\)\(3\)](#) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to--

(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

(2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Attorney General.

(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that is 60 months after such date of enactment, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun (other than the return of a handgun to the person from whom it was received) to an individual who is not licensed under [section 923](#), unless--

(A) after the most recent proposal of such transfer by the transferee--

(i) the transferor has--

(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

(II) verified the identity of the transferee by examining the identification document presented;

(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

(C)(i) the transferee has presented to the transferor a permit that--

(I) allows the transferee to possess or acquire a handgun; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under [section 923](#), an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

(E) the Attorney General has approved the transfer under [section 5812 of the Internal Revenue Code](#) of 1986; or

(F) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because--

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only--

(A) the name, address, and date of birth appearing on a valid identification document (as defined in [section 1028\(d\)\(1\)](#)) of the transferee containing a photograph of the transferee and a description of the identification used;

(B) a statement that the transferee--

(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, and has not been convicted in any court of a misdemeanor crime of domestic violence;

(ii) is not a fugitive from justice;

(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

(v) is not an alien who--

(I) is illegally or unlawfully in the United States; or

(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)\(26\)](#)));

(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

(C) the date the statement is made; and

(D) notice that the transferee intends to obtain a handgun from the transferor.

(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer that the transferor has about the transfer and the transferee to--

(A) the chief law enforcement officer of the place of business of the transferor; and

(B) the chief law enforcement officer of the place of residence of the transferee.

(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law--

(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);

(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages--

(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

(8) For purposes of this subsection, the term “chief law enforcement officer” means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

(9) The Attorney General shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.

(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless--

(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act;

(B)(i) the system provides the licensee with a unique identification number; or

(ii) subject to subparagraph (C), 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section, or State, local, or Tribal law;

(C) in the case of a person less than 21 years of age, in addition to all other requirements of this chapter--

(i) the system provides the licensee with a unique identification number;

(ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that cause exists to further investigate a possibly disqualifying juvenile record under subsection (d); or

(iii) in the case of such a person with respect to whom the system notifies the licensee in accordance with clause (ii) that cause exists to further investigate a possibly disqualifying juvenile record under subsection (d), 10 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that--

(I) transferring the firearm to the other person would violate subsection (d) of this section; or

(II) receipt of a firearm by the other person would violate subsection (g) or (n) of this section, or State, local, or Tribal law; and

(D) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in [section 1028\(d\)](#) of this title) of the transferee containing a photograph of the transferee.

(2) If transfer or receipt of a firearm would not violate subsection (d), (g), or (n) (as applicable) or State, local or Tribal law, the system shall--

(A) assign a unique identification number to the transfer;

(B) provide the licensee with the number; and

(C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if--

(A)(i) such other person has presented to the licensee a permit that--

(I) allows such other person to possess or acquire a firearm; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

(B) the Attorney General has approved the transfer under [section 5812 of the Internal Revenue Code](#) of 1986; or

(C) on application of the transferor, the Attorney General has certified that compliance with paragraph (1)(A) is impracticable because--

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the transfer of a firearm to or receipt of a firearm by such other person would violate subsection (d), (g), or (n) (as applicable) or State⁴ local, or Tribal law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

(5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that transfer of a firearm to or receipt of a firearm by such other person would violate subsection (d), (g), or (n) (as applicable) of this section or State⁴ local, or Tribal law, the Attorney General may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under [section 923](#), and may impose on the licensee a civil fine of not more than \$5,000.

(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages--

(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.

(u) It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.

[(v), (w) Repealed. [Pub.L. 103-322, Title XI, § 110105\(2\)](#), Sept. 13, 1994, 108 Stat. 2000.]

(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile--

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(2) It shall be unlawful for any person who is a juvenile to knowingly possess--

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(3) This subsection does not apply to--

(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile--

(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except--

(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

(II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State or local law from possessing a firearm;

(iii) the juvenile has the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

(iv) in accordance with State and local law;

(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

(D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

(5) For purposes of this subsection, the term “juvenile” means a person who is less than 18 years of age.

(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

(B) The court may use the contempt power to enforce subparagraph (A).

(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.

(y) Provisions relating to aliens admitted under nonimmigrant visas.--

(1) Definitions.--In this subsection--

(A) the term “alien” has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)\(3\)](#)); and

(B) the term “nonimmigrant visa” has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)\(26\)](#)).

(2) Exceptions.--Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is--

(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;

(B) an official representative of a foreign government who is--

(i) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

(ii) en route to or from another country to which that alien is accredited;

(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

(3) Waiver.--

(A) Conditions for waiver.--Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if--

(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

(ii) the Attorney General approves the petition.

(B) Petition.--Each petition under subparagraph (B) shall--

(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

(C) Approval of petition.--The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner--

(i) would be in the interests of justice; and

(ii) would not jeopardize the public safety.

(z) Secure gun storage or safety device.--

(1) In general.--Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in [section 921\(a\)\(34\)](#)) for that handgun.

(2) Exceptions.--Paragraph (1) shall not apply to--

(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

(B) the transfer to, or possession by, a rail police officer directly employed by or contracted by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to [section 921\(a\)\(13\)](#); or

(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in [section 923\(e\)](#), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

(3) Liability for use.--

(A) **In general.**--Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

(B) **Prospective actions.**--A qualified civil liability action may not be brought in any Federal or State court.

(C) **Defined term.**--As used in this paragraph, the term “qualified civil liability action”--

(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if--

(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.

[APPENDIX A Repealed. Pub.L. 103-322, Title XI, § 110105(2), Sept. 13, 1994, 108 Stat. 2000]

CREDIT(S)

(Added Pub.L. 90-351, Title IV, § 902, June 19, 1968, 82 Stat. 228; amended Pub.L. 90-618, Title I, § 102, Oct. 22, 1968, 82 Stat. 1216; Pub.L. 97-377, Title I, § 165(a), Dec. 21, 1982, 96 Stat. 1923; Pub.L. 99-308, § 102, May 19, 1986, 100 Stat. 451; Pub.L. 99-408, § 2, Aug. 28, 1986, 100 Stat. 920; Pub.L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub.L. 100-649, § 2(a), (f)(2) (A), Nov. 10, 1988, 102 Stat. 3816, 3818; Pub.L. 100-690, Title VII, § 7060(c), Nov. 18, 1988, 102 Stat. 4404; Pub.L. 101-647, Title XVII, § 1702(b)(1), Title XXII, §§ 2201, 2202, 2204(b), Title XXXV, § 3524, Nov. 29, 1990, 104 Stat. 4844, 4856, 4857, 4924; Pub.L. 103-159, Title I, § 102(a)(1), (b), Title III, § 302(a) to (c), Nov. 30, 1993, 107 Stat. 1536, 1539, 1545; Pub.L. 103-322, Title XI, §§ 110102(a), 110103(a), 110105(2), 110106, 110201(a), 110401(b), (c), 110511, 110514, Title XXXII, §§ 320904, 320927, Title XXXIII, § 330011(i), Sept. 13, 1994, 108 Stat. 1996, 1998, 2000, 2010, 2014, 2019, 2125, 2131, 2145; Pub.L. 104-208, Div. A, Title I, § 101(f) [Title VI, §§ 657, 658(b)], Sept. 30, 1996, 110 Stat. 3009-314, 3009-369, 3009-372; Pub.L. 104-294, Title VI, § 603(b), (c)(1), (d) to (f)(1), (g), Oct. 11, 1996, 110 Stat. 3503, 3504; Pub.L. 105-277, Div. A, § 101(b) [Title I, § 121], Oct. 21, 1998, 112 Stat. 2681-50, 2681-71; Pub.L. 107-273, Div. B, Title IV, § 4003(a)(1), Nov. 2, 2002, 116 Stat. 1811; Pub.L. 107-296, Title XI, § 1112(f)(4), (6), Nov. 25, 2002, 116 Stat. 2276; Pub.L. 109-92, §§ 5(c)(1), 6(a), Oct. 26, 2005, 119 Stat. 2099, 2101; Pub.L. 114-94, Div. A, Title XI, § 11412(c)(2), Dec. 4, 2015, 129 Stat. 1688; Pub.L. 117-103, Div. W, Title XI, § 1104(b), Mar. 15, 2022, 136 Stat. 921; Pub.L. 117-159, Div. A, Title II, §§ 12001(a)(1), (3), 12004(b), June 25, 2022, 136 Stat. 1322, 1324, 1329; Pub.L. 118-159, Div. E, Title LII, § 5211(b), Dec. 23, 2024, 138 Stat. 2444.)

Footnotes

- 1 So in original. Probably should be followed with “and”.
- 2 So in original. The word “who” probably should not appear.
- 3 So in original. Probably should be “of the”.
- 4 So in original. Probably should be followed by a comma.

18 U.S.C.A. § 922, 18 USCA § 922

Current through P.L. 119-102. Some statute sections may be more current, see credits for details.

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