

No.
IN THE
SUPREME COURT OF THE UNITED STATES

JERRY WILLIAMS, Petitioner,
-vs-

PEOPLE OF THE STATE OF ILLINOIS, Respondent.

On Petition For Writ Of Certiorari
To The Supreme Court Of Illinois

PETITION FOR WRIT OF CERTIORARI

JAMES E. CHADD
State Appellate Defender

BRIAN E. KOCH
Deputy Defender
Office of the State Appellate Defender
First Judicial District
203 N. LaSalle St., 24th Floor
Chicago, IL 60601
(312) 814-5472
1stdistrict.eserve@osad.state.il.us

COUNSEL FOR PETITIONER

Of Counsel:
Daniel H. Regenscheit
Assistant Appellate Defender

QUESTION PRESENTED FOR REVIEW

Does *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 38 n.9 (2022), require courts to apply *Bruen*’s mandated two-step historical analysis to determine the constitutionality of criminal penalties related to a state’s “shall issue” concealed carry licensing regime?

PARTIES TO THE PROCEEDING

Petitioner is Jerry Williams, who was the Defendant-Appellant in the court below. No stock ticker is applicable. Respondent, the State of Illinois, was the Plaintiff–Appellee in the court below. No stock ticker is applicable.

RELATED PROCEEDINGS

The following proceedings are directly related to this case:

- *People of the State of Illinois v. Jerry Williams*, Supreme Court of Illinois, No. 132908, petition for leave to appeal denied May 27, 2026.
- *People of the State of Illinois v. Jerry Williams*, First District Appellate Court, No. 1-24-1501, judgment affirming circuit court’s order entered February 17, 2026.
- *People of the State of Illinois v. Jerry Williams*, Circuit Court of Cook County, No. 16CR1662901, order denying petition for relief from judgment entered June 17, 2024.
- *People of the State of Illinois v. Jerry Williams*, Circuit Court of Cook County, No. 16CR1662901, sentencing order entered October 12, 2017.

TABLE OF CONTENTS

Question Presented for Review	i
Parties to the Proceedings	ii
Related Proceedings	ii
Table of Authorities	v
Opinion Below	1
Statement of Jurisdiction	1
Constitutional and Statutory Provisions Involved	2
Statement of the Case	3
Reason for Granting the Petition	10
I. Bruen's Footnote Nine does not cloak State “shall-issue” concealed-carry licensing regimes with a presumption of constitutionality that exempts them from Bruen's historical-scrutiny requirement.	10
II. This case is an excellent vehicle to address the question presented because the appellate court's decision here relies entirely on the Illinois Supreme Court's misinterpretation of the language of Footnote Nine, and only this Court can correct the court's error.	17
III. The history and tradition of the United States of America does not support the requirement that individuals submit to licensure before exercising the right to bear arms.	19
Conclusion	27

INDEX TO APPENDIX

Appendix A.	<i>People v. Williams</i> , 2026 IL App (1st) 241501-U, affirming denial of petition for relief from judgment
Appendix B.	<i>People v. Williams</i> , Circuit Court of Cook County, No. 16CR1662901, order denying petition for relief from judgment

- Appendix C. *People v. Williams*, Supreme Court of Illinois, No. 132908, order denying leave to appeal
- Appendix D. *People v. Williams*, 2020 IL App (1st) 180471-U, affirming conviction and sentence on direct appeal
- Appendix E. *People v. Williams*, Circuit Court of Cook County, No. 16CR1662901, Indictment

TABLE OF AUTHORITIES

Federal Cases

<i>Atkinson v. Garland</i> , 70 F.4th 1018 (7th Cir. 2023)	14–15
<i>District of Columbia v. Heller</i> , 554 U.S. 570 (2008)	8, 21–22
<i>Giambalvo v. Suffolk Cnty., New York</i> , 155 F.4th 163 (2d Cir. 2025)	13
<i>Golden v. Zwickler</i> , 394 U.S. 103 (1969)	14
<i>Johnson v. Jacobson</i> , 2025 WL 2624380 (D. Minn. Sept. 11, 2025)	14
<i>Maryland Shall Issue, Inc. v. Moore</i> , 116 F.4th 211 (4th Cir. 2024)	13
<i>McCoy v. Jacobson</i> , 176 F.4th 1055 (8th Cir. 2026).	14
<i>McDonald v. City of Chicago</i> , 561 U.S. 742 (2010)	8, 24
<i>McRorey v. Garland</i> , 99 F.4th 831 (5th Cir. 2024)	13
<i>Mills v. New York City, New York</i> , 758 F. Supp. 3d (S.D.N.Y. 2024)	13
<i>New York State Rifle & Pistol Ass’n, Inc. v. Bruen</i> , 597 U.S. 1 (2022).	<i>passim</i>
<i>Rhode v. Bonta</i> , 145 F.4th 1090 (9th Cir. 2025)	14
<i>Rocky Mountain Gun Owners v. Polis</i> , 121 F.4th 96 (10th Cir. 2024)	13
<i>Sedita v. United States</i> , 763 F. Supp. 3d (D.D.C. 2025)	14
<i>United States v. Diaz</i> , 116 F.4th 458 (5th Cir. 2024)	13
<i>United States v. Rahimi</i> , 602 U.S. 680 (2024)	15
<i>Utah v. Strieff</i> , 579 U.S. 232 (2016)	25
<i>Wolford v. Lopez</i> , 146 S. Ct. 2032 (2026).	10–11

State Cases

<i>Commonwealth v. Marquis</i> , 495 Mass. 434 (2025)	14
<i>In re M.I.</i> , 2013 IL 113776	7

<i>In re N.G.</i> , 2018 IL 121939	7
<i>People v. Aguilar</i> , 2013 IL 112116.....	8, 19
<i>People v. Price</i> , 2016 IL 118613.....	7
<i>People v. Thompson</i> , 2025 IL 129965	<i>passim</i>
<i>People v. Williams</i> , 2026 IL App (1st) 241501-U	1
Constitutional and Statutory Provisions:	
28 U.S.C. § 1257(a).....	1
Statutes:	
430 ILCS 65	2
430 ILCS 65/2 (a)(1).....	4, 19
430 ILCS 65/4.....	4
430 ILCS 65/4(a)(3)	4
430 ILCS 65/4(a)(3)(a-20).....	4
430 ILCS 65/4(a)(3)(a-25).....	4
430 ILCS 65/5(a)	4, 25
430 ILCS 65/5(b)	4
430 ILCS 66	2
430 ILCS 66/1	19
430 ILCS 66/10(c).....	5, 25
430 ILCS 66/10(e).....	25
430 ILCS 66/10(e)(1)	5
430 ILCS 66/15(a)	6
430 ILCS 66/15(b)	6

430 ILCS 66/25.....	19
430 ILCS 66/25(2), 66/30(b)(4).....	5
430 ILCS 66/25(3), 66/30(b)(5).....	5
430 ILCS 66/25(6)	5
430 ILCS 66/30(b)(3)	5
430 ILCS 66/30(b)(4)	19
430 ILCS 66/30(b)(8)	5
430 ILCS 66/30(b)(10)	5
430 ILCS 66/35.....	5
430 ILCS 66/60(b)	5
430 ILCS 66/75.....	5
720 ILCS 5/24-1.6(a)(1)	22
720 ILCS 5/24-1.6 (a)(1), (3)(A-5)	2–3, 19
720 ILCS 5/24-1.6(d)(1)	6
720 ILCS 5/24-1.6(d)	23, 25
720 ILCS 5/24-1.6(d)(2)	6
720 ILCS 5/24-1.6(d)(4)	6
735 ILCS 5/2-1401 (2024).....	7, 17

No.
IN THE
SUPREME COURT OF THE UNITED STATES

JERRY WILLIAMS, Petitioner,

-vs-

PEOPLE OF THE STATE OF ILLINOIS, Respondent.

On Petition For Writ Of Certiorari

To The Supreme Court Of Illinois

The petitioner, Jerry Williams, respectfully prays that a writ of certiorari issue to review the judgment below.

OPINION BELOW

The decision of the Illinois Appellate Court (Appendix A) is reported at *People v. Williams*, 2026 IL App (1st) 241501-U, and is unpublished. The order of the Illinois Supreme Court denying leave to appeal (Appendix C) is reported at 2026 WL 1486805.

JURISDICTION

On February 17, 2026, the Appellate Court of Illinois issued its decision. No petition for rehearing was filed. The Illinois Supreme Court denied a timely filed petition for leave to appeal on May 27, 2026. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Second Amendment to the United States Constitution, made applicable to the states by the Fourteenth Amendment, provides:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

720 ILCS 5/24-1.6 (a)(1), (3)(A-5), (d) (Aggravated unlawful possession of a weapon)

(a) A person commits the offense of aggravated unlawful possession of a weapon when he or she knowingly:

(1) Carries on or about his or her person or in any vehicle or concealed on or about his or her person except when on his or her land or in his or her abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm; [. . . and. . .]

(3) One of the following factors is present: [. . .]

(A-5) the pistol, revolver, or handgun possessed was uncased, loaded, and immediately accessible at the time of the offense and the person possessing the pistol, revolver, or handgun has not been issued a currently valid license under the Firearm Concealed Carry Act;

[. . .]

(d) (1) Aggravated unlawful use of a weapon is a Class 4 felony; a second or subsequent offense is a Class 2 felony for which the person shall be sentenced to a term of imprisonment of not less than 3 years and not more than 7 years[. . .]

430 ILCS 66/10(c)(2) (Firearm Concealed Carry Act)

[. . .]

(c) A license shall be valid throughout the State for a period of 5 years from the date of issuance. A license shall permit the licensee to:

(1) carry a loaded or unloaded concealed firearm, fully concealed or partially concealed, on or about his or her person; and

(2) keep or carry a loaded or unloaded concealed firearm on or about his or her person within a vehicle.

430 ILCS 66/25(2)

The Illinois State Police shall issue a license to an applicant completing an application in accordance with Section 30 of this Act if the person:

[. . .]

(2) has a currently valid Firearm Owner's Identification Card and at the time of application meets the requirements for the issuance of a Firearm Owner's Identification Card and is not prohibited under the Firearm Owners Identification Card Act or federal law from possessing or receiving a firearm.

STATEMENT OF THE CASE

Overview

On October 12, 2017, Jerry Williams was convicted of aggravated unlawful possession of a weapon (“AUPW”)¹ and sentenced to five years’ incarceration. (Appx. A, ¶ 5). The AUPW section under which Williams was convicted, 720 ILCS 5/24-1.6 (a)(1), (3)(A-5), specifically criminalizes carrying a loaded and accessible gun without having been issued a license under the Firearm Concealed Carry Act (“CCL Act”) and assigns violators with felony criminal punishment.

Following this Court’s opinion in *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022), Williams filed a collateral petition for relief from judgment raising a Second Amendment challenge to the AUPW statute. The circuit court denied Williams’s petition, stating that the AUPW subsection did not amount to a flat ban on carrying firearms and was not facially unconstitutional. On appeal of the denial of his petition, Williams contended that the AUPW statute’s enforcement of Illinois’ double licensing regime did not comply with the historical tradition of firearm regulation under the historical analysis announced by this Court in *Bruen*. (Appx. A, ¶ 9).

The appellate court rejected Williams’s Second Amendment challenge, stating that because the Illinois Supreme Court had found in *People v. Thompson* that Footnote Nine from this Court’s *Bruen* decision had already declared Illinois’ double licensing regime as being in compliance with the Second Amendment, no

¹ In 2017, the Illinois statute was titled “aggravated unlawful use of a weapon.”

historical analysis was necessary. *Id.* ¶ 53. The Illinois Supreme Court denied leave to appeal, and Williams now seeks this Court’s review.

Illinois Concealed Carry Licensing requirements and criminal penalty

In Illinois, individuals face a felony conviction for failing to apply for and receive a concealed carry licence issued by the State before they carry a ready-to-use handgun for self-defense outside the home. To receive a concealed carry license, an individual must undergo two separate licensing regimes with two separate waiting periods and two separate sets of fees under the FOID Act and the CCL Act.

Before an individual may “acquire or possess any firearm” in Illinois, they must have been issued a FOID card under the FOID Act. 430 ILCS 65/2 (a)(1). The FOID Act requires an applicant to submit proof that they have not been convicted of any serious felonies and do not suffer from any mental health issues in order to be eligible to receive a FOID card. 430 ILCS 65/4. In addition, the applicant must allow other intrusions by the government, such as, upon request, “sign a release on a form prescribed by the Illinois State Police waiving any right to confidentiality and requesting the disclosure to the Illinois State Police of limited mental health institution admission information from another state[.]” 430 ILCS 65/4(a)(3). They must also submit a photograph or seek a religious exemption for the requirement of a photograph. 430 ILCS 65/4(a)(3)(a-20). They must also pay the required unspecified fees for a criminal background check. 430 ILCS 65/4(a)(3)(a-25). The fee to obtain a FOID card is \$10. 430 ILCS 65/5(a). The State’s determination on whether to issue or deny an applicant a FOID card may take up to “60 business days.” 430 ILCS 65/5(b).

A CCL license allows a licensee to “carry a loaded or unloaded concealed firearm, fully concealed or partially concealed, on or about his or her person; and. . . keep or carry a loaded or unloaded concealed firearm on or about his or her person within a vehicle.” 430 ILCS 66/10(c). In order to be issued a CCL license under the CCL Act, an individual must first possess a FOID card and have undergone the requirements under the FOID Act. 430 ILCS 66/25(2), 66/30(b)(4). The CCL Act process includes all the requirements contained under the FOID Act. Like the FOID Act, it requires applicants to submit proof that they have not been convicted of a serious felony. 430 ILCS 66/25(3), 66/30(b)(5). They shall waive several “privacy and confidentiality rights and privileges under all federal and state laws, including those limiting access to juvenile court, criminal justice, psychological, or psychiatric records or records relating to any institutionalization of the applicant[.]” 430 ILCS 66/30(b)(3). If applicants did not submit their fingerprints in their application for a FOID card, they are required to submit fingerprints under the CCL Act’s application. 430 ILCS 66/30(b)(8).

In addition to these requirements, under the CCL Act, applicants must also undergo at least 16 hours of firearms training and must submit certificates of completion. 430 ILCS 66/75, 66/25(6), 66/30(b)(10). The fee for a new CCL application by an Illinois resident is \$150. 430 ILCS 66/60(b). Applicants must again pay an unspecified fee for a criminal background check as well. 430 ILCS 66/35. The State’s determination on whether to issue or deny an applicant a CCL license may take up to “90 days,” 430 ILCS 66/10(e)(1), and the license is only valid for “5 years from the date of issuance.” 430 ILCS 66/10(c). “[A]ny law enforcement

agency may submit an objection to a license applicant based upon a reasonable suspicion that the applicant is a danger to himself or herself or others, or a threat to public safety.” 430 ILCS 66/15(a). An objection tolls the 90-day period for ISP to issue or deny an applicant the license until a review on the objection is done and a decision issued. 430 ILCS 66/15(b).

An individual who fails to satisfy these requirements and exercises the right to carry a ready-to-use handgun for self-defense outside the home in Illinois faces a Class 4 felony for aggravated unlawful possession of a weapon. 720 ILCS 5/24-1.6(d)(1). If the offense is a second or subsequent AUPW offense, or if the individual has previously been convicted of a felony, it is a Class 2 felony. 720 ILCS 5/24-1.6(d)(2, 4).

Factual background and criminal trial

On October 19, 2016, Chicago police responded to calls of a person with a gun on the West Side of Chicago. (Appx. D, ¶¶ 11–12). One caller reported that a group of about 20 individuals was causing a commotion, describing two black men who “have handguns and are in the front with a group of other males.” (Appx. D, ¶ 11). Another caller reported overhearing that the same group was about to start shooting. (Appx. D, ¶ 11). Officers arrived and saw a group of about six or seven people. (Appx. D, ¶ 12). As their squad car approached the group, one of the officers shouted “I’m gonna tase you! I’m gonna tase you! Pull out the Taser, pull out the Taser! I’m going to f***ing tase you, Joe!” (Appx. D, ¶ 26).

Williams, part of the group and hearing the officers yelling, attempted to leave the area to get away from the oncoming officers. (Appx. D, ¶¶ 15–17, 27,

31–32). Williams entered the front yard of a residence and placed a handgun on the ground on the side of the building. (Appx. D, ¶ 27). One of the officers noticed Williams leave the yard, stopped him, and asked what he was doing. (Appx. D, ¶¶ 27, 31). The officer asked him if he had a concealed carry licence or FOID card, which he did not. (Appx. D, ¶¶ 17, 27, 31). Another officer searched the yard and found a loaded handgun. (Appx. D, ¶ 27, 29).

The circuit court denied Williams’s motion to suppress and convicted him of Count I, aggravated unlawful possession of a weapon for lack of a concealed carry license. (Appx. D, ¶ 33). The circuit court merged all other counts into Count I, and because the indictment charged that Williams had previously been convicted of felony aggravated driving under the influence, the circuit court sentenced Williams as a Class 2 offender to five years in prison. (Appx. D, ¶ 33; Appx. E).

The Illinois Appellate Court affirmed Williams’s conviction and sentence, and the Illinois Supreme Court denied leave to appeal that direct appeal on January 27, 2021. (Appx. A, ¶ 5).

Petition for relief from judgment

On June 4, 2024, Williams filed a petition for relief from judgment, an Illinois procedural vehicle that allows a party to move to vacate a final judgment. 735 ILCS 5/2-1401 (2024). (Appx. A, ¶ 6). While a petition filed under Section 2-1401 must usually be filed within two years, the Illinois Supreme Court has recognized that a conviction based on a facially unconstitutional statute is void *ab initio*, and a void conviction can be challenged at any time. *In re N.G.*, 2018 IL 121939, ¶¶ 56–57; *In re M.I.*, 2013 IL 113776, ¶ 39; *People v. Price*, 2016 IL 118613, ¶ 30. The petition

alleged that Williams’s conviction for aggravated unlawful possession of a weapon without a concealed carry license was facially unconstitutional under the Second Amendment and void under *People v. Aguilar*, 2013 IL 112116, an Illinois case applying this Court’s decisions in *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *McDonald v. City of Chicago*, 561 U.S. 742 (2010), to Illinois’s blanket prohibition on the carriage of firearms prior to the creation of its concealed carry licensing regime. (Appx. A, ¶ 6); *see Aguilar*, 2013 IL 112116, ¶¶ 20–22. In a one-page order, the circuit court denied Williams’s petition, stating that the AUPW subsection did not amount to a flat ban on carrying firearms and was not facially unconstitutional. (Appx. B; Appx. A, ¶ 7).

On appeal of denial of the petition, Williams argued that under *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022), because his conduct was presumptively protected by the Second Amendment, the government must show that prohibiting an adult without a concealed carry license from carrying a handgun is consistent with this Nation’s historical tradition of firearm regulation. (Appx. A, ¶¶ 9, 13). Williams argued that because the State would not be able to do so, subsection (a)(1), (3)(A-5), of the AUPW statute—which bans adults without licenses from carrying handguns—is unconstitutional on its face, and Williams’s conviction thereunder should be reversed. (Appx. A, ¶¶ 9, 13).

The Illinois Appellate Court stated that the Illinois Supreme Court had already found the AUPW statute at issue “not facially unconstitutional under the second amendment” by relying upon Footnote Nine of this Court’s *Bruen* opinion. (Appx. A, ¶ 16), citing *People v. Thompson*, 2025 IL 129965, ¶ 3. The Illinois

Supreme Court in *Thompson* had found that *Bruen*’s Footnote Nine “expressly” decided that “shall issue” firearm licencing regimes, like Illinois’s, are not unconstitutional. *Thompson*, 2025 IL 129965, ¶¶ 39–46, citing *Bruen*, 597 U.S. at 38 n.9. In doing so, the Illinois Supreme Court claimed that “*Bruen* itself demonstrates that applying the text-and-history standard to Illinois’s shall-issue regime is unnecessary[.]” *Thompson*, 2025 IL 129965, ¶¶ 44–45. The Illinois Appellate Court noted that the Illinois Supreme Court’s interpretation of *Bruen* in *Thompson* was controlling, and therefore affirmed the circuit court’s dismissal of Williams’s petition. (Appx. A, ¶¶ 17, 25).

The Illinois Supreme Court declined to review the appellate court decision. (Appx. B).

REASON FOR GRANTING CERTIORARI

I. *Bruen*’s Footnote Nine does not cloak State “shall-issue” concealed-carry licensing regimes with a presumption of constitutionality that exempts them from *Bruen*’s historical-scrutiny requirement.

The Illinois Appellate Court’s decision here, in reliance upon the Illinois Supreme Court in *People v. Thompson*, 2025 IL 129965, stated that in *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022), this Court expressly endorsed the constitutionality of “shall-issue” concealed carry firearms license regimes, and that therefore Illinois courts need not engage in the “text-and-history” analysis articulated in *Bruen* to determine facial challenges to criminal statutes related to the enforcement of Illinois’s shall-issue regime. (Appx. A, ¶ 16–17). But *Bruen* did not endorse this approach, and courts’ reliance upon *Bruen*’s Footnote Nine to exempt Illinois’s aggravated unlawful possession of a weapon and concealed carry licensing statutes from historical scrutiny is misplaced. Rather, when courts are confronted with a Second Amendment question, and no controlling court has conducted *Bruen*’s historical analysis on that question, it is the court’s duty to engage in a historical analysis and resolve the inquiry. This Court should require the courts to do so here, where Illinois’s unlawful possession of a weapon statute infringes upon an individual’s right to carry a loaded firearm in public without having first been issued a concealed carry license by the state, a practice unknown to the historical American tradition of firearm regulation.

In *Bruen*, this Court articulated the two steps of historical analysis required in a Second Amendment case, which this Court recently emphasized and reiterated in *Wolford v. Lopez*, 146 S. Ct. 2032, 2043–44 (2026). First, a court must determine

whether the challenged law falls within the plain text of the Amendment’s language—whether the law applies to “the people” and restricts the “keep[ing]” or “bear[ing]” of “Arms.” *Wolford*, 146 S.Ct. at 2043–44. When a challenged law does fall within the Second Amendment’s plain text, it is presumptively unconstitutional. *Id.* at 2044. At the second step, the government then has the burden to show that its challenged law does not infringe the historical understanding of the codified right to bear arms. *Id.* It does so by presenting historical analogues from which a court may infer that the contemporary law is consistent with the codified right. *Id.* Three inquiries aid this evaluation of historical analogues—the number of jurisdictions in which the analogues were adopted, the extent to which the analogues were well-accepted, and whether the analogues are “relevantly similar” to the modern law inasmuch as “how” and “why” they restricted the keeping or bearing of arms. *Id.*; *Bruen*, 597 U.S. at 29–30.

In *Bruen*, this Court applied this analysis to a challenge to a New York state concealed-carry-licensing regime which “conditions issuance of a license to carry on a citizen’s showing of some additional special need.” *Bruen*, 597 U.S. at 11. This Court found such “may issue” licensing regimes prevented law-abiding citizens from exercising their Second Amendment right to bear arms for self-defense because they left it to the discretion of state officials to issue licenses. *Id.* at 71. This Court distinguished between “may issue” and “shall issue” licensing schemes, explaining that with “may issue” statutes, “authorities have discretion to deny concealed-carry licenses even when the applicant satisfies the statutory criteria[,]” while with “shall issue” states, the government “must issue concealed-carry licenses whenever

applicants satisfy certain threshold requirements, without granting licensing officials discretion to deny licenses based on a perceived lack of need or suitability.” *Id.* This Court ultimately found that the government had failed meet its “burden to identify an American tradition justifying” its statute’s requirement that individuals demonstrate a special need in order to carry arms. *Id.* at 70.

In a footnote, *Bruen* acknowledged that the substance of its opinion addressed “may-issue” licensing regimes, which required an individual to satisfy certain subjective criteria to obtain a concealed carry license, like New York’s special-need test. *Id.* at 38 n.9. The Court contrasted these to the “shall-issue” licensing regimes of 43 other states and stated “nothing in our analysis should be interpreted to suggest the unconstitutionality of the 43 States’ “shall-issue” licensing regimes[.]” *Id.* Because these states’ licensing regimes require only the satisfaction of objective criteria like a background check and safety course and do not require an individual to make a special showing of atypical need for self-defense, this Court suggested shall-issue concealed carry licensing regimes do not necessarily prevent “law-abiding, responsible citizens’ from exercising their Second Amendment right to public carry.” *Id.* But it also noted it did not rule out constitutional challenges to the specific conditions of shall-issue regimes, like excessive wait times or fees, that may “deny ordinary citizens their right to public carry.” *Id.*

Since *Bruen*, some courts have treated Footnote Nine as creating a safe harbor for “shall issue” licensing regimes, insulating them from any historical analysis. *See, e.g., Maryland Shall Issue, Inc. v. Moore*, 116 F.4th 211, 222–23, 229

(4th Cir. 2024), cert. denied, 145 S. Ct. 1049 (2025); *McRorey v. Garland*, 99 F.4th 831, 836–38 (5th Cir. 2024); *Giambalvo v. Suffolk Cnty., New York*, 155 F.4th 163, 181 (2d Cir. 2025); *Rocky Mountain Gun Owners v. Polis*, 121 F.4th 96, 104–06 (10th Cir. 2024); *Mills v. New York City, New York*, 758 F. Supp. 3d 250, 263–65 (S.D.N.Y. 2024). Indeed, the Illinois Supreme Court cited this footnote and claimed that “[t]he *Bruen* Court expressly declared shall-issue licensing regimes facially constitutional under the second amendment[.]” *People v. Thompson*, 2025 IL 129965, ¶ 39. It acknowledged and adopted *Bruen*’s two-part historical history-and-tradition test. *Thompson*, 2025 IL 129965, ¶ 43. But it also believed that this Court “expressly held in *Bruen* that shall-issue firearm licensing regimes, like the one enacted in Illinois, comport with the second amendment because they do not contain the problematic features of New York’s licensure regime[.]” and that this “express endorsement of shall-issue licensure obviates the need for this court to apply the historical-tradition component of the *Bruen* analysis” to Illinois’s concealed carry license regime and the statutory criminal penalties related to noncompliance. *Id.* ¶ 42–43.

However, other courts have noted that, when no controlling historical analysis has been conducted to discover a relevant and analogous historical firearm regulation, *Bruen* still demands that courts perform such analysis when resolving Second Amendment challenges. *See, e.g., United States v. Diaz*, 116 F.4th 458, 466 (5th Cir. 2024) (finding that where no controlling court has conducted the appropriate Second Amendment historical inquiry, “we must do so ourselves.”). Thus, other courts have continued to apply *Bruen*’s two-step historical framework

when analyzing challenges to “shall issue” licensing regimes despite Footnote Nine. *See e.g., Atkinson v. Garland*, 70 F.4th 1018, 1022 (7th Cir. 2023); *Commonwealth v. Marquis*, 495 Mass. 434, 459 (2025); *Rhode v. Bonta*, 145 F.4th 1090, 1116 (9th Cir. 2025), reh’g *en banc* granted, opinion vacated, No. 24-542, 2025 WL 3441686 (9th Cir. Dec. 1, 2025); *Sedita v. United States*, 763 F. Supp. 3d 63, 78–79 (D.D.C. 2025); *Johnson v. Jacobson*, No. CV 25-54 (JRT/DTS), 2025 WL 2624380, at *5–6 (D. Minn. Sept. 11, 2025), affirmed by *McCoy v. Jacobson*, 176 F.4th 1055, 1058 (8th Cir. 2026). These courts generally recognize that, because the question of the constitutionality of concealed carry licensing itself was not before the Court in *Bruen*, and the Court there did not examine the historical tradition of a prerequisite firearm carriage license, its footnote cannot have resolved the claim that shall-issue concealed carry licensing regimes and their criminal penalties are unconstitutional. *See Golden v. Zwickler*, 394 U.S. 103, 108 (1969) (“For adjudication of constitutional issues ‘concrete legal issues, presented in actual cases, not abstractions’ are requisite.”).

Here, the Illinois Appellate Court stated that the Illinois Supreme Court specifically held that Footnote Nine generated a presumption of constitutionality that applied to “shall issue” statutes and satisfied the second step of the *Bruen* test; therefore, there was no need for further historical analysis to a facial challenge to Illinois’s criminal penalties related to unlicensed concealed carry of a firearm. (Appx. A, ¶ 16), citing *People v. Thompson*, 2025 IL 129965, ¶ 44; *see Thompson*, 2025 IL 129965, ¶¶ 39–42. But pointing to the same footnote relied upon there, the Seventh Circuit in *Atkinson* found that Footnote Nine did not allow courts to

“sidestep” the two-step historical framework announced by this Court in *Bruen*. *Atkinson*, 70 F.4th at 1022. It noted that *Bruen* set forth a “demanding standard” that “examined a wealth of laws and commentary spanning several centuries, paying close attention to the enforcement and impact of various regulations.” *Atkinson*, 70 F.4th at 1022.

Justifying its decision not to compare Illinois’s criminal penalties for carrying a loaded firearm without a concealed carry license, the Illinois Supreme Court noted that the *Bruen* decision itself “does not prohibit States from imposing licensing requirements for carrying a handgun for self-defense.” *Thompson*, 2025 IL 129965, ¶ 41, quoting *Bruen*, 597 U.S. at 79 (Kavanaugh, J., concurring, joined by Roberts, C.J.). However, the case before the Court in *Bruen* did not involve any shall-issue statutory scheme, neither Illinois’s nor any other state’s. And the parties themselves did not raise a challenge to the imposition of criminal penalties for non-compliance with a state’s shall-issue concealed carry licensing requirement. The Illinois Supreme Court transformed comments about the limited nature of the *Bruen* holding from dicta into an advisory opinion on issues that were “simply not presented.” *United States v. Rahimi*, 602 U.S. 680, 702 (2024). Indeed, the Illinois Supreme Court’s conclusion permits Illinois courts to invoke *Bruen* to evade the very historical analysis mandated by *Bruen* itself.

Courts around the Nation are now split on whether this Court’s language from Footnote Nine instructs courts to bypass a historical analysis when addressing “shall issue” licensing schemes or whether Footnote Nine is mere dicta that does not affect the two-step historical framework.

This Court should grant certiorari to resolve this conflict.

II. This case is an excellent vehicle to address the question presented because the appellate court's decision here relies entirely on the Illinois Supreme Court's misinterpretation of the language of Footnote Nine, and only this Court can correct the court's error.

This case cleanly presents the purely legal question of whether, under this Court's decision in *Bruen*, Illinois courts are required to conduct the history-and-tradition test to determine whether criminal penalties for non-compliance with Illinois's concealed carry licensing regime is consistent with the Second Amendment. The question was raised and addressed in the appellate court below. The First District Appellate Court reached the merits of the claim and upheld the Illinois statute, finding that the Illinois Supreme Court's decision in *People v. Thompson*, 2015 IL 118151 was controlling and no historical analysis was required. (Appx. A). The judgment below rests on the resolution of the same constitutional question now presented to this Court, a question that the Illinois Supreme Court declined to review. (Appx. C.)

Williams was convicted of this offense in 2017, but there is no procedural obstacle to this Court's review. Williams challenged his conviction in 2024 under an Illinois statutory procedure that permits a party to vacate a final judgment, including a criminal conviction, that was entered more than 30 days prior. Appx. B; 735 ILCS 5/2-1401 (2024). Void judgments are not subject to the two year requirement for the filing of a Section 2-1401 petition, and a conviction that is based on a facially unconstitutional challenge is void *ab initio* under Illinois law. *Thompson*, 2015 IL 118151, ¶ 32. Therefore, a facial constitutional challenge to a conviction can be brought at anytime. The court below recognized this and resolved

petitioner's case on the merits of whether Illinois' concealed carry license requirement violated the Second Amendment. (Appx. A.)

Further factual development in a court below is not necessary to resolve the case, as the petitioner brought a facial challenge to the constitutionality of the statute. The individual circumstances of the petitioner do not alter the question before this Court. The judgment below rests on the First District Appellate Court's determination that under the Illinois Supreme Court's decision in *Thompson*, 2015 IL 118151, the application of *Bruen*'s history-and-tradition test to Illinois's shall-issue concealed carry licensing regime and related criminal penalty was unnecessary. (Appx. A).

The constitutional question presented in this case was raised below and addressed by the First District Appellate Court. The case would allow this Court to educate the lower courts on the proper application of the Second Amendment analysis framework it set forth in *Bruen*. This case is therefore an excellent vehicle to resolve a question ripe for review: whether lower courts must apply *Bruen*'s history-and-tradition test to facial Second Amendment challenges to criminal penalties for non-compliance with a state's concealed carry licensing regime, like 725 ILCS 24-1.6(a)(1), (a)(3)(A-5), or whether *Bruen*'s footnote referencing shall-issue concealed carry licensing statutes not at issue in *Bruen* may be interpreted to mean that criminal penalties enforcing those state statutes are in accord with the Nation's historical tradition of firearm regulation.

III. The history and tradition of the United States of America does not support the requirement that individuals submit to licensure before facing criminal penalties for exercising the right to bear arms.

Illinois's AUPW statute makes it a felony to possess a loaded firearm outside the home without having been issued a license under the Firearm Concealed Carry Act. 720 ILCS 5/24-1.6(a)(1), (3)(A-5). CCL applicants must also first apply for and be issued a Firearm Owner Identification ("FOID") Card from the State, and failure to obtain either of these licenses could result in felony prosecution. This firearm licensing regime is unconstitutional in light of *Bruen*.

The FOID Card Act first took effect in 1968. 430 ILCS 65/1 *et seq.* With limited exceptions, no person in Illinois may acquire or possess any firearm without a FOID Card issued by the Illinois State Police. 430 ILCS 65/2(a)(1). The Firearm Concealed Carry Act took effect in 2013, after courts found Illinois's blanket criminalization of the bearing of loaded firearms in public unconstitutional. 430 ILCS 66/1 *et seq.*; see *People v. Aguilar*, 2013 IL 112116. To qualify for a CCL, the applicant must, among other things, be at least 21 years old, have a valid FOID Card and maintain FOID Card qualifications, and complete firearms training prescribed by the statute. 430 ILCS 66/25. An applicant may apply concurrently for a FOID and CCL, but application and issuance of a FOID Card is required for a CCL. 430 ILCS 66/30(b)(4).

Illinois law criminalizes the exercise of a constitutionally protected right by those who do not first obtain consent from the State by twice providing evidence of personal information and paying a fee. Williams's conviction for AUPW should be vacated, because the requirement that he be issued a FOID Card and CCL is not

consistent with this Nation’s historical tradition of firearm regulation and therefore violates the right to bear arms under the Second and Fourteenth Amendments.

Because public carry is conduct covered by the text of the Second Amendment, the State is required to show that the criminal penalty for failure to comply with the AUPW statute’s CCL requirement is analogous to and consistent with historically accepted restrictions on firearm possession. *See Bruen*, 597 U.S. at 17. Critically, under *Bruen*, it is the State’s burden to “affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms.” *Id.* at 19. Fundamentally, “the Government bears the burden of proving the constitutionality of its actions[,]” and the “burden falls on [the Government] to show that [a challenged law] is consistent with this Nation’s historical tradition of firearm regulation.” *Id.* at 24, 33–34 (citations and quotations omitted). The State cannot meet this burden.

The State cannot rely on historical “outliers” as precedent to establish the permissibility of a modern law. *Id.* at 30. It must find a “well-established and representative historical *analogue*” that imposes a “comparable burden” and show that its present regulation or law is “comparably justified.” *Id.* at 29–30 (emphasis in original). While the historical analogue need not be a “dead ringer,” it must be considered “analogous enough to pass constitutional muster[,]” sharing the “how and why” the regulation imposes upon the right to bear arms. *Id.* at 29–30.

Here, the AUPW statute rendered Williams’s possession of a handgun a crime because he had not been issued a license beforehand. The State cannot establish that Section 24-1.6(a)(1), (a)(3)(A-5) regulates the individual right to keep

and bear arms in a manner that falls within the scope of the right as originally understood. Historical evidence shows that criminalization of handgun possession in the absence of a FOID Card and CCL burdens the individual right in a manner with no historical analogue.

In *Bruen*, this Court considered historical precedent from before, during, and after the Nation’s founding era. The Court determined that historical evidence from the period around the 1791 adoption of the Second Amendment and the 1868 adoption of the Fourteenth Amendment was the most compelling historical evidence of the scope of the right to keep and bear arms. *Bruen*, 597 U.S. at 24–38. The Court found “little evidence of an early American practice of regulating public carry by the general public.” *Id.* at 46. Only three colonial-era restrictions were identified in *Bruen*, all from the 1690s, none of which constitute a historical analogue for the modern AUPW statute that criminalizes Williams’s possession of a handgun because he had not first obtained the requisite licenses from the State to exercise his right to bear arms. Even if these statutes could suffice to establish a tradition of firearm regulation, they are not comparable to the statute at issue here.

Massachusetts and New Hampshire authorized the arrest of anyone armed “offensively,” in such a manner as to cause terror or breach of the peace. *Id.* at 46–47. The Court held that even if these colonial statutes were to be understood to apply to the public carry of “dangerous and unusual weapons,” this category could not be read to include handguns in the current day, as handguns are “unquestionably in common use today” as the “quintessential self-defense weapon.” *Id.*; *District of Columbia v. Heller*, 554 U.S. 570, 629 (2008). Moreover, the

additional intent element prevents this statute from serving as a historical analogue to the AUPW statute, which has no similar requirement and instead punishes those who simply possess a firearm but have not twice obtained permission from the State to possess a firearm in exercise of their Second Amendment right.

Similarly, the Court accorded no meaningful weight to a short-lived East New Jersey law banning the concealed carry of “pocket pistols” by planters, *i.e.*, farmers or plantation owners settling new territories. *Bruen*, 597 U.S. at 47–49. The Court found the law applied to uncommon pistols with three to four inch barrels, as opposed to the more commonly used six to 14 inch barrels of the time. *Id.* The fact that this statute’s prohibition on concealed carry did not apply to all pistols distinguishes it from the statute at issue here, which requires two licenses for the concealed carry of “any pistol, revolver, stun gun or taser or other firearm[.]” 720 ILCS 5/24-1.6(a)(1). As such, these narrow statutes are not historical analogues for modern firearm regulations criminalizing the possession of a handgun, the “quintessential self-defense weapon,” by anyone who does not first seek and receive the consent of the State via the procedures of the FOID Card Act and Firearm Concealed Carry Act. *See Bruen*, 597 U.S. at 45–49.

In *Heller*, this Court addressed founding-era laws that punished the discharge of a gun in certain places, such as streets or taverns, with a small fine or forfeiture of the weapon. *Heller*, 554 U.S. at 632–34. The Court deemed these punishments “akin to modern penalties for minor public-safety infractions like speeding or jaywalking.” *Id.* at 633. Therefore, these laws could not be considered

historical comparisons for a modern D.C. law that threatened citizens with a year in prison for obtaining a gun without a license. *Id.* at 633–34. Nor can they be cited to support Illinois’s AUPW statute, which punishes an individual for carrying a gun outside the home without a CCL—even if the individual has a FOID card—with incarceration and a felony status. 720 ILCS 5/24-1.6(d).

After the ratification of the Second Amendment in 1791, restrictions on the right to keep and bear arms began to emerge. However, “post-ratification adoption or acceptance of laws that are *inconsistent* with the original meaning of the constitutional text obviously cannot overcome or alter that text.” *Bruen*, 597 U.S. at 36 (citation omitted) (emphasis in original). Some states limited the right to public carry consistent with the colonial era common law offenses against carrying “dangerous and unusual weapons” in a manner that caused terror. *Id.* at 50–53. As set forth above in relation to these laws, these precedents provide no historical comparison for the modern use of handguns.

Finally, some jurisdictions adopted surety laws in the mid-19th century that targeted individuals who threatened harm. *Id.* at 55. Under these laws, the right to public carry was recognized as a starting point, but could be burdened for certain individuals upon a prior showing that they were reasonably likely to breach the peace. *Id.* at 55–56. Such individuals could be required to pay a bond in order to carry a firearm. *Id.* at 56. Critically, unlike the AUPW statute, these laws were not preemptive, and they were not punitive. Nor did they burden the individual right to carry arms for self-defense except in exceptional circumstances, after a showing of dangerousness had already been made. *Id.* at 58–60. Therefore, they do not

establish a historical tradition comparable to Illinois’s modern gun regulations at issue in this case, which require all persons, with limited exceptions, to obtain a license from the state before exercising their right to bear arms.

While it is the Fourteenth Amendment that compels Illinois to defer to an individual’s right to keep and bear arms, this Court has made clear that this right has the same scope as the Second Amendment, and the scope of that protection is fixed to the understanding of the right at the time it was adopted in 1791. *See Bruen*, 597 U.S. at 37 (citations omitted). Nevertheless, *Bruen* held that the public understanding of the right to keep and bear arms in 1791 was, for all relevant purposes, the same in 1868 when the Fourteenth Amendment was ratified. *Id.* at 38. And even these later laws do not provide an analogue to the concealed carry licensure and AUPW schemes of the present day.

After the Civil War, many states that had joined the Confederacy engaged in systematic efforts to disarm African-Americans who had served in the Union Army. For example, Mississippi law barred firearm possession by any “freedman, free negro or mulatto, not in the military service of the United States government, and not licensed so to do by the board of police of his or her county.” *McDonald v. City of Chicago*, 561 U.S. 742, 771 (2010). Similar schemes were put into effect in Louisiana, Kentucky, Florida, and Alabama. *McDonald*, 561 U.S. at 771. Federal legislation leading up to and including the Fourteenth Amendment was enacted to “redress the grievances” of those who had been stripped of their arms and affirm the right of every citizen to self-defense. *Id.* at 774, citing A. Amar, *The Bill of Rights: Creation and Reconstruction*, 264–65 (Yale U. Press 1998). Thus, the short-lived

laws requiring freedmen and others to obtain licenses from the police in order to bear arms are not suitable historical comparisons for the CCL Act or the AUPW statute. These licensing schemes were rejected as discriminatory and unsustainable encroachments on the historical right to keep and bear arms afforded all free Americans. They do not establish a tradition of firearm regulation that would support Illinois's modern CCL requirement and the AUPW statute's criminal penalties for those who keep and bear arms without a CCL.

Additionally, the right to carry a weapon for self-defense is immediate, but the FOID Card Act allows the government 30 days to approve or deny an application. 430 ILCS 65/5(a). The State's determination on a CCL application may take up to 90 days, and the license is valid for only "5 years from the date of issuance." 430 ILCS 66/10 (c),(e). There is no historical analogue for such delays or expiration of the right.

Thus, without the relevant historical precedent required by *Bruen*, Illinois law imposes felony penalties for the exercise of a constitutionally protected right by those who do not first obtain consent from the State by twice providing personal information, a photograph, and paying a fee. A person like Williams who violates this provision may be convicted of a felony and subject to a term imprisonment. 720 ILCS 5/24-1.6(d). In addition to the potential incarceration following a felony conviction, there is a "civil death" that accompanies criminal convictions, arising from discrimination by employers, landlords, and anyone else who conducts a background check. *Utah v. Strieff*, 579 U.S. 232, 253 (2016) (Sotomayor, J., dissenting).

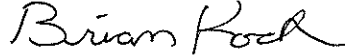
As it stands, the conduct of bearing arms as described in Section 24-1.6(a)(1), (a)(3)(A-5) is a right protect by the Second Amendment. Without a pre-issued license, Illinois deems the exercise of that right a crime. Illinois cannot demonstrate a historical tradition of firearm regulation that supports an understanding of the Second Amendment consistent with this scheme. Therefore, Section 24-1.6(a)(1), (3)(A-5) of the AUPW statute is unconstitutional under the test set forth in *Bruen*.

Accordingly, this Court should grant certiorari to require courts to conduct *Bruen*'s history-and-tradition test to examine the constitutionality of 725 ILCS 24-1.6(a)(1), (a)(3)(A-5).

CONCLUSION

For the foregoing reasons, petitioner, Jerry Williams, respectfully prays that a writ of certiorari issue to review the judgment of the Illinois Appellate Court.

Respectfully submitted,



BRIAN E. KOCH
Deputy Defender – Counsel of Record
Office of the State Appellate Defender
First Judicial District
203 N. LaSalle St., 24th Floor
Chicago, IL 60601
(312) 814-5472
1stDistrict@osad.state.il.us

COUNSEL FOR PETITIONER

Of Counsel:
Daniel H. Regenscheit
Assistant Appellate Defender