

No. 26-_____

In the Supreme Court of the United States

ALBERTO REBOLLAR-OSORIO,
PETITIONER,

V.

UNITED STATES OF AMERICA,
RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

A federal statute prohibits an “alien” who is “illegally or unlawfully in the United States” from possessing any firearm or ammunition. 18 U.S.C. § 922(g)(5)(A). The Petitioner is an undocumented Mexican citizen who came to the United States as a child and has lived in Maine for over a decade. During a traffic stop for speeding, police discovered a firearm and ammunition in the vehicle he was driving. The question presented is whether 18 U.S.C. § 922(g)(5)(A) may be enforced against Petitioner consistent with the Second Amendment.

PARTIES TO THE PROCEEDINGS

- Alberto Rebollar-Osorio, *Petitioner*
- United States of America, *Respondent*

RELATED PROCEEDINGS

United States v. Rebollar-Osorio, Crim. No. 2:24-cr-00040-NT-1
(D. Me. October 11, 2024)

United States v. Rebollar Osorio, No. 24-2043 (1st Cir. May 5, 2026 and
June 29, 2026)

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Rebollar-Osorio respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the First Circuit.

OPINIONS BELOW

The opinion of the First Circuit (Pet. App. 1a) is reported at 174 F.4th 924. The order of the First Circuit denying rehearing (Pet. App. 43a) is not reported. The relevant order of the district court (Pet. App. 12a) is unpublished but available at 793 F. Supp. 3d 212 (D. Me. 2024).

JURISDICTION

The judgment of the court of appeals was entered on May 5, 2026 (Pet. App. 1a). A timely filed petition for rehearing was denied on June 29, 2026. (Pet. App. 43a). This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Second Amendment provides: “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” U.S. Const. Amend. II.

18 U.S.C. § 922(g)(5)(A) provides:

It shall be unlawful for any person – ... who, being an alien – (A) is illegally or unlawfully in the United States; ... 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.

INTRODUCTION

To date, no federal appellate court has found that 18 U.S.C. § 922(g)(5)(A), is unconstitutional in violation of the Second Amendment. But the decisions that post-date *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022), are divided on the questions that matter: (1) whether persons illegally in the United States are “people” for purposes of the Second Amendment; and if so, (2) what the government must demonstrate to carry its burden of proving the constitutionality of an alien’s disarmament. These important disagreements will not be resolved without this Court’s intercession.

As a general matter, the lower courts’ unanimous approval of categorical disarmament statutes like § 922(g)(5)(A) contrasts with this Court’s expansion of the substantive scope of the Second Amendment, beginning with *McDonald v. City of Chicago*, 561 U.S. 742 (2010) (incorporating the Second Amendment against the states), and continuing through *Bruen*, 597 U.S. at 10 (holding that the Second and Fourteenth Amendments protect an individual’s right to carry a handgun for self-defense outside the home). One scholar has noted:

As the Supreme Court nestles the right to bear arms into the core of America’s most treasured civil liberties, the

power to possess a firearm connotes more than the ability to own a particular form of property or even to engage in a particular form of expression. Transcending both, the right to own a firearm evolves into a central signifier of belonging within the constitutional order.

Pratheepan Gulasekaram, *The Second Amendment's "People" Problem*, 76 Vand. L. Rev. 1437, 1445 (2023).

The First Circuit's decision not only cuts against that tide, but it also raises important questions about congressional regulation as the measure of constitutional rights. If, as the First Circuit seems to say, disarmament hinges on "citizenship" as defined by Congress, then congressional erosion of Second Amendment rights is possible. Giving de facto authorization to Congress to categorically disarm a subset of people whom Congress deems insufficiently "loyal" is both dystopian and precisely what the Second Amendment was designed to present against. This case provides an excellent vehicle for this Court to address an issue that has application in other contexts: whether pegging constitutional meaning exclusively to statutory text allows legislatures to erode constitutional entitlements. Guidance from this Court is needed.

STATEMENT OF THE CASE

The police stopped Petitioner for speeding.¹ During the investigation that ensued, officers learned that Petitioner unlawfully entered the United States when he was a child, over a decade prior, and that a backpack inside the car that he drove contained a handgun and ammunition.² This led to Petitioner's indictment for violating 18 U.S.C. § 922(g)(5)(A), which makes it unlawful for any "alien" who is "illegally or unlawfully in the United States" to "possess" "any firearm or ammunition," an offense punishable by up to 15 years' prison. 18 U.S.C. § 924(a)(8). (Pet. App. 2a).

I. Proceedings in the district court

Petitioner moved to dismiss the indictment, arguing that, as applied to him, § 922(g)(5)(A) violated the Second Amendment. (Pet. App. 3a). The district court granted the motion. (Pet. App. 4a, 42a).

Citing *United States v. Verdugo-Urquides*, 494 U.S. 259 (1990), the court reasoned that Petitioner "has established a 'sufficient connection with this country to be considered part of the national community' such

¹ District Court Dkt. 1-1, ¶¶ 4-5.

² *Id.* at ¶¶ 6-10.

that he is one of ‘the people’ presumptively protected by the Second Amendment[.]” (Pet. App. 26a). In support, the court found that Petitioner came to the United States a dozen years ago, when he was a child, to avoid violence in Mexico. (Pet. App. 25a). He lived with his brother, who is a United States citizen, and he learned English, which he speaks well. *Id.* Petitioner is married to a United States citizen, and “he has spent considerable time working and caring for his family and others in his community, including helping friends, elderly neighbors, and even strangers in need.” *Id.* Petitioner has never been arrested before. *Id.* He has begun the paperwork to become a United States citizen. *Id.* The court remarked that the government presented “no evidence” cutting against a “sufficient connection” determination. (Pet. App. 26a).

Citing *Bruen*, the district court additionally determined that the government failed to carry its burden of showing that § 922(g)(5)(A) is consistent with the Nation’s historical tradition of firearm regulation. The court determined that none of the “early regulations put forward by the Government” were “distinctly similar” to § 922(g)(5)(A). (Pet. App. 29a, 41a). Nor were any such early regulations “sufficiently analogous”

to founding-era laws “to establish a comparable tradition of firearms regulation.” (Pet. App. 40a).

II. Proceedings in the First Circuit

A panel of the First Circuit reversed the district court’s order. (Pet. App. 2a). The court reasoned that because Petitioner’s challenge failed “at the second step of the *Bruen* framework, there is no reason to resolve the first-step question of whether aliens in this country illegally or unlawfully are among ‘the people’ to whom the Second Amendment refers.” (Pet. App. 6a). Petitioner’s challenge failed “at the second step,” the court said, because “the government had met its burden to show that § 922(g)(5)(A) fits comfortably within the tradition of firearm regulation.”

Id. This was primarily so, the court explained because:

[T]he relevant history reveals a longstanding concern about sovereign control over individuals who, although owing a temporary and local allegiance to this country, which subjects them to laws like § 922(g)(5)(A), belong to groups presumed allegiant to a foreign power and have not formally recognized the government’s authority.

(Pet. App. 9a).

Moreover, the court explained, § 922(g)(5)(A) implicates “a novel societal concern, as it was enacted against the backdrop of our modern immigration framework, which did not exist until the last 19th century,”

but it is nevertheless “relevantly similar” to “the colonial- and founding-era measures disarming Catholics and British Loyalists in ‘how’ it burdens the right to bear arms.” (Pet. App. 10a-11a). Importantly, the court believed that § 922(g)(5)(A):

[A]llows individuals subject to the restriction the opportunity to restore their right to possess firearms by signaling allegiance and entering the requisite relationship to the relevant government authority in the manner prescribed by that authority.

(Pet. App. 11a).

The First Circuit elaborated on this in its companion decision, *United States v. Vizaiño-Peguero*, 175 F.4th 34 (1st Cir. 2026). The panel opinion in that case held that aliens have a “presumptive allegiance” to a foreign state, and that § 922(g)(5)(A)’s “prohibition...persists only until the individuals that it targets take steps to ensure that they have entered into the kind of relationship with the government that is otherwise lacking.” *Id.* at 46.

Petitioner sought rehearing, and asked the court to clarify how an illegal alien might prove that he has “a regulable relationship to the government,” *id.* at 44, or that he has “tak[en] steps to ensure that [he] has entered into the kind of relationship with the government” *id.* at 46,

that demonstrates the requisite degree of allegiance. Petitioner also asked the court to explain whether the only way to rebut the presumption of allegiance to a foreign government is for an illegal alien to become (or take “steps” to become) either a U.S. citizen or a lawful permanent resident; and if so, whether that comports with this Court’s admonition in *District of Columbia v. Heller*, 554 U.S. 570, 634 (2008), that “[t]he very enumeration of the right takes [it] out of the hands of government[.]” The First Circuit summarily denied rehearing. (Pet. App. 43a).

REASONS FOR GRANTING THE WRIT

There is an entrenched conflict among federal courts of appeal about the application of the Second Amendment to people who are unlawfully or illegally in the United States, and about the application of *Bruen* and *United States v. Rahimi*, 602 U.S. 680 (2024) to § 922(g)(5)(A). Petitioner’s case offers an ideal vehicle for resolving these questions. It also offers an opportunity for this Court to reiterate that constitutional meaning does not, and may not, depend exclusively on statutory labels.

I. There is a split on the question of whether persons in the United States unlawfully are among the “people” whom the Second Amendment protects.

The Second Amendment provides “[a] well regulated Militia, being necessary to the security of a free State, the right of *the people* to keep and bear Arms, shall not be infringed. U.S. Const. amend. II. (emphasis added). *Bruen* established a two-part test to determine whether a law is consistent with the Second Amendment. The first step asks whether “the Second Amendment’s plain text covers an individual’s conduct.” *Bruen*, 597 U.S. at 24. This requires a determination of whether the type of person subject to regulation under § 922(g)(5)(A), an “alien” who “is legally or unlawfully in the United States,” is among “the people” mentioned in the text of the Second Amendment. This is the first issue that has divided the federal courts of appeal.³

³ This Court has already decided that Petitioner’s conduct – possessing a handgun, an extra magazine, and ammunition, outside his home – falls within the ambit of Second Amendment protection. *See Bruen*, 597 U.S. at 9, 32 (“[H]andguns are weapons in common use today for self-defense” and the Second and Fourteenth Amendments protect the right “to carry a handgun for self-defense outside the home[.]”); *see also Hanson v. Smith*, 120 F.4th 223, 232 (D.C. Cir. 2024) (“A magazine is necessary to make meaningful an individual’s right to carry a handgun for self-defense. To hold otherwise would allow the government to sidestep the Second Amendment with a regulation prohibiting possession at the component level....”).

The Fourth, Fifth, and Eighth Circuits have concluded that unlawfully present noncitizens are excluded from “the people.”⁴ The Sixth, Seventh, and Eleventh Circuits have concluded that at least some noncitizens are among “the people.”⁵ The First, Second, Third, Ninth, and Tenth Circuits have assumed without deciding that noncitizens are among the people.⁶

⁴ *United States v. Murillo-Lopez*, 151 F.4th 584, 591-92 (4th Cir. 2025) (“[U]ndocumented non-citizens do not belong to the class of law-abiding members of the political community to whom the Second Amendment gives protection.”) (internal citation omitted); *United States v. Medina-Cantu*, 113 F.4th 537, 542 (5th Cir. 2024) (per curiam), *cert. denied*, 145 S.Ct. 1318 (2025) (“[I]llegal aliens are not members of the political community covered by the Second Amendment.”) (internal citation omitted); *United States v. Sitladeen*, 64 F.4th 978, 983-85 (8th Cir. 2023) (“[U]nlawfully present aliens are not within the class of persons to which the phrase ‘the people’ refers.”).

⁵ In reaching that conclusion, these courts have applied the test articulated in *Verdugo-Urquidez*, 494 U.S. at 265, and reiterated in *Heller*, 554 U.S. at 580, that “the people” are those who are “part of [the] national community or who have otherwise developed sufficient connection with this country.” *United States v. Escobar-Temal*, 161 F.4th 969, 977-78 (6th Cir. 2025) (“[T]he Second Amendment’s reference to ‘the people’ encompasses unlawfully present individuals with sufficient connections to the national community....”); *United States v. Carbajal-Flores*, 143 F.4th 877, 881-82 (7th Cir. 2025), *cert. denied*, 146 S.Ct. 826 (2025) (similar); *United States v. Jimenez-Shilon*, 34 F.4th 1042, 1044-45 (11th Cir. 2022) (“[W]e can’t rule out the possibility that at least *some* illegal aliens might, during their stays here, have otherwise developed sufficient connection with this country to be considered part of that community....”) (internal citation omitted).

⁶ *Vizcaíno-Peguero*, 175 F.4th at 40 (“[T]he principle of constitutional avoidance points against our deciding...whether ‘the people’ to whom the Second Amendment refers excludes all persons who are not citizens of the United States – or even only such persons who are here illegally or unlawfully – if it is not necessary for us to do so....”); *United States v. Perez*, 6 F.4th 448, 452 (2d Cir. 2021) (“[E]ven if we were to assume that Perez has a constitutional right to possess firearms, we find that §

II. There is a split on the question of what the government must show to prove the constitutionality of an alien’s disarmament.

At the second step of the *Bruen* framework, the government has the burden to show that § 922(g)(5)(A) comports with the country’s tradition of firearm regulation. *Bruen*, 597 U.S. at 17. The government must therefore identify historical analogues to § 922(g)(5)(A) that suffice to show that such an encompassing historical tradition exists. *Id.* at 30.

Those federal courts of appeal that have proceeded to *Bruen*’s second step have all agreed that the right to bear arms may be made contingent on “allegiance” and “loyalty” to the sovereign, but crucially, all but the Sixth Circuit, and with varying degrees of clarity, have deferred to legislative definitions of “citizenship” as a measure of allegiance and loyalty. The upshot is that aside from the Sixth Circuit, a person’s right to bear arms depends on their willingness and ability to satisfy statutory, *i.e.* sub-constitutional standards, which is not the way constitutional interpretation works. Constitutional rights are not

922(g)(5) is a permissible restriction when applied to the facts of this case.”); *United States v. Aleman-Lozano*, __ F.4th __, 2026 U.S. App. LEXIS 267700, * 7 (3d Cir. Sept. 1 2026) (an opinion concerning the constitutionality of 18 U.S.C. § 922(g)(5)(B); similar); *United States v. Vazquez-Ramirez*, 163 F.4th 706, 709 (9th Cir. 2026) (per curiam) (similar); *United States v. Duque-Ramirez*, 161 F.4th 1237, 1239 (10th Cir. 2025) (similar).

defined by Congressional fiat. *Heller*, 554 U.S. at 634 (“The very enumeration of the right takes [it] out of the hands of government[.]”).

The First Circuit determined that aliens have a “presumptive allegiance” to a foreign state, which “persists” unless or until the alien “takes steps” to “enter[] the requisite relationship to the relevant government authority *in the manner prescribed by that authority*.” *Rebollar-Osorio*, 174 F.4th at 929-30 (emphasis added).

The Third Circuit held that noncitizens disarmed by § 922(g)(5) must “follow the path *prescribed by Congress* and undergo the naturalization process.” *Aleman-Lozano*, 2026 U.S. App. LEXIS 26770, at *13. The Seventh Circuit likewise held that the right to bear arms depends on whether an alien has become “naturalized and taken the oath of renunciation and allegiance” as provided by “8 U.S.C. § 1448.” *Carbajal-Flores*, 143 F.4th at 889. The Tenth Circuit has said that aliens must “follow the procedure *laid out by the legislature* to demonstrate allegiance (today, the naturalization laws).” *Duque-Ramirez*, 161 F.4th at 1248 (same) (emphasis added).

The Sixth Circuit rejected the defendant’s argument that “even if individuals present in the United States unlawfully are dangerous as a

class, members of that class should have the opportunity to prove that they are not dangerous, and that the law is, therefore, unconstitutional as applied to them.” *Escobal-Temal*, 161 F.4th at 985. Instead, the court reasoned that § 922(g)(5)(A)’s categorical disarmament is permissible because “the Second Amendment is not violated by disarming a group that lacks a formal relationship with the United States government and that is, therefore, difficult to regulate.” *Id.* at 983. The Sixth Circuit did not further define what such a “formal relationship” might entail, and it did not equate that relationship with naturalization.

III. This case is an excellent vehicle for resolving the question presented.

The procedural posture and factual setting of this case make it a perfect for resolving the question presented. The question presented was pressed and passed upon by both the district court and the court of appeals. The factual record is simple and unusually clear. There are no contested material facts. Moreover, it is undisputed that Petitioner came to the United States as a child, and he has remained in the United States unlawfully; doing so is a civil violation, but not a crime. *See e.g. Arizona v. United States*, 567 U.S. 387, 407 (2012) (“As a general rule, it is not a crime for a removable alien to remain present in the United States.”).

IV. Section 922(g)(5)(A) is unconstitutional as applied to Petitioner.

A. Petitioner is among “the people” who enjoy Second Amendment protection, and the First Circuit was wrong not to say so affirmatively.

Anyone with a sufficient connection to this country is among “the people” who enjoy the liberty enshrined in the Second Amendment. *Heller*, 554 U.S. at 580. The district court found that Petitioner has a sufficient connection with the United States, and the government made no factual argument otherwise on appeal. The First Circuit was wrong to assume this important legal question without squarely deciding it.

For one thing, this Court has spoken clearly. A plurality of Justices in *Verdugo-Urquidez*, 494 U.S. at 265, held that “people” was a “term of art” that must be read similarly throughout the Bill of Rights. *Id.* at 265. In *Heller*, 554 U.S. at 580, this Court applied the definition of “people” from *Verdugo-Urquidez* to the Second Amendment. By doing so, the Court confirmed that the Second Amendment’s “people” included more than citizens; connection with the United States is dispositive, not immigration status.

For another, ambiguity on this important issue is unnecessary and dangerous. The Second Amendment affirms a pre-existing right to

individual self-defense. *Heller*, 554 U.S. at 599. “Self-defense is a basic right.” *McDonald*, 561 U.S. at 767. Categorically stripping *millions* of people of the right to defend themselves or their families (which may include United States citizens), including inside their own homes, is inconsonant with the paramount importance of self-defense to the human condition. And backsliding on the uniform meaning of “the people” throughout the constitution will open the floodgates to additional litigation, leaving *millions* of people uncertain as to whether they enjoy other important protections, as well.⁷

B. “Disloyalty” is not a constitutionally permissible basis for disarmament.

“Loyalty” or “allegiance” to the sovereign is not the measure of Second Amendment protection. The First Circuit’s historical analysis is flawed. The court collects an assortment of legal artifacts and suggests that the historical disarmament of political, racial and religious minorities supports the disarmament of all illegal aliens now. But this history contradicts – it does not confirm – the court’s conclusion.

⁷ “The people” appears in the Preamble, and the First, Second, Ninth and Tenth Amendments. *See also Bridges v. Wixon*, 326 U.S. 135, 148 (1945) (“Freedom of speech and press is accorded aliens residing in this country.”).

This Court has warned litigants to “be careful” about extrapolating from English history. *Bruen*, 597 U.S. at 35. Twice, this Court has explained that under the English Bill of Rights, the right to bear arms was not available to the whole population; rather, “it was restricted to Protestants and held only against the Crown, but not Parliament.” *Bruen*, 597 U.S. at 44; *Heller*, 554 U.S. at 593. The Second Amendment is different because it is not limited on grounds of subjectship or religion, and it is held against the entire government, not particular branches. *Heller*, 554 U.S. at 581 (the right “is exercised individually”).

As this Court explained at length in *Bruen*, between the Stuart Restoration in 1660 and the Glorious Revolution in 1688, the monarchy “ramped up efforts to disarm their political opponents,” but this just “caused Englishmen to be jealous of their arms.” *Bruen*, 597 U.S. at 42-43 (cleaned up). The Second Amendment retained the individual right to bear arms but jettisoned the English limitations by extending it to “the people” without qualification. *Bruen*, 597 U.S. at 44-46; *Heller*, 554 U.S. at 593. We did not adopt the English tradition of categorically disarming

out-groups. The Second Amendment repudiated that.⁸ The First Circuit’s reasoning fails to recognize the illusory line between disarming political opponents (which the Second Amendment rejected) and disarming anyone deemed “disloyal.” There is no discernible, immutable difference between the two. “Loyalty” hinges entirely on the sovereign’s malleable whims. *But see Wolford v. Lopez*, 146 S.Ct. 2032, 2054 n. 1 (2026) (Barrett, J., concurring) (“No one disputes that the Second Amendment’s text has a fixed meaning....”).

Perhaps the best evidence that “loyalty” is a precarious basis on which to condition Second Amendment rights is the First Circuit’s reliance on historical regulations disarming Native Americans, Catholics and other religious minorities, and Blacks. The First Circuit abstracts from these terrible things a historical tradition of the categorical disarmament of individuals deemed insufficiently loyal, but that is not why those disarmament provisions were enacted. The primary purpose of those laws was subjugation. Laws that disarmed out-groups for racist reasons are not “relevantly similar” to modern-day gun legislation

⁸ See also *Rahimi*, 602 U.S. at 694 (“English law disarmed...political opponents and disfavored religious groups. By the time of the founding, however, state constitutions and the Second Amendment had largely eliminated governmental authority to disarm political opponents on this side of the Atlantic.”).

because the purpose of modern-day legislation is not the racist preservation of a ruling case. *Cf. United States v. Rahimi*, 61 F.4th 443, 457 (5th Cir. 2023), *vacated by* 620 U.S. 680 (2024) (“The purpose of disarming ‘disloyal’ or ‘unacceptable’ groups was ostensibly the preservation of political and social order” and thus they are not “relevantly similar” to 18 U.S.C. § 922(g)(8)).

Moreover, the First Circuit altogether overlooked the government’s failure to prove that § 922(g)(5)(A) was enacted because of disloyalty concerns. *But see Rahimi*, 602 U.S. at 753 (The “central considerations when comparing modern and historical regulations are whether the regulations impose a comparable burden that is comparably justified.”). To the contrary, the government claimed that § 922(g)(5)(A) was enacted to address societal concerns of curbing crime and gun violence. (Appellant’s Brief at 13-14).

The problems of gun violence, aliens who behaved dangerous, and a concern for lawbreaking, all existed in the founding-era. None of these concerns, however, was addressed in the founding-era by categorically disarming every person in the country unlawfully. *See e.g. Rahimi*, 602 U.S. at 693 (discussing historical regulations aimed at reducing gun

violence, such as surety and going armed laws); *see e.g.* The Alien Act of 1798, Pub. L. No. 5-58, § 1, 1 Stat. 570 (1798) (repealed 1800) (aliens who behaved committed crimes or behaved dangerously were subject to removal, not disarmament).

C. “Citizenship” is not the measure of Second Amendment protection.

Even if “disloyalty” is a constitutionally permissible basis for disarmament, the First Circuit was wrong to conclude that anyone who committed the civil violation of remaining unlawfully inside the United States is categorically “disloyal.” The court compounded that error by suggesting that taking “steps” to “enter[] into the kind of relationship with the government that is otherwise lacking” is the only way to prove loyalty. *Vizcaíno-Peguero*, 175 F.4th at 46.

The First Circuit’s instruction is opaque. It never explains what such “steps” might entail, and it never says what “relationship with the government” is required. Further confusing matters, the First Circuit seems to rely heavily on the reasoning of the Sixth Circuit that § 922(g)(5)(A) is constitutional because illegal immigrants “exist largely outside the formal system of registration, employment, and identification and so may be harder to trace.” *Vizcaíno-Peguero*, 175 F.4th at 44-45.

But that is not true of all illegal aliens, such as those who have registered for the selective service, 50 U.S. § 3802, or those who pay taxes. Is this the sort of “relationship with the government” that will suffice to establish “loyalty”?

Or, as other federal appellate courts have suggested, is something more required? Is the only way to rebut the presumption of allegiance to a foreign government for an illegal alien to become (or take “steps” to become) either a U.S. citizen or a lawful permanent resident?⁹

If “loyalty” or “citizenship” are the only measure of allegiance for purposes of the Second Amendment, then congressional erosion of Second Amendment rights is possible. The Citizenship Clause of the Fourteenth Amendment dictates who among the people qualify as citizens at birth. *Trump v. Barbara*, 146 S.Ct. 2438, 2450 (2026). Petitioner was not a United States citizen at birth. His path to citizenship is dictated by statute, and statutory definitions are neither fixed nor immune from manipulation. Congress has linked the definition of “alien” to “citizen.” 18 U.S.C. § 922(y)(1)(A); 8 U.S.C. § 1101(a)(3). And if free-floating

⁹ Or a person who has achieved some other statutorily defined status. *See e.g.* 18 U.S.C. § 922(y)(2).

notions of “loyalty” or “allegiance,” untethered to a statutory or constitutional definition of citizenship dictate the breadth of Second Amendment protections, then even people born in the United States should be worried about Congress’s ability to strip that protection away.¹⁰

Giving de facto authorization to Congress to categorically disarm a subset of people whom Congress deems insufficiently “loyal,” which is what the federal appellate courts appear to have done, is precisely what the Second Amendment was designed to prevent against. *Heller*, 554 U.S. at 634 (“The very enumeration of the right takes [it] out of the hands of government[.]”); see also *Floajtar v. Attorney General*, 980 F.3d 897, 921-22 (3d Cir. 2020) (Bibas, J., dissenting) (explaining that statutory labels are “elastic, unbounded, and manipulable” by legislatures, and that pegging constitutional meaning to statutory text allows legislatures to erode constitutional entitlements). Intercession from this Court is needed.

¹⁰ The Fourteenth Amendment prevents the government from unilaterally stripping native-born Americans of their citizenship. *Afroyim v. Rusk*, 387 U.S. 253, 257, 262 (1967). But nothing prevents the government from declaring a native-born American to be “disloyal” for purposes of the Second Amendment.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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