

No.

IN THE SUPREME COURT OF THE UNITED STATES

CHRISTOPHER R. DALEY, PETITIONER,

v.

STATE OF FLORIDA, RESPONDENT.

*ON PETITION FOR A WRIT OF CERTIORARI TO
THE FOURTH DISTRICT COURT OF APPEAL OF FLORIDA*

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

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DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

CHRISTOPHER R. DALEY,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D2025-1268

[May 13, 2026]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit,
Broward County; Timothy Lawrence Bailey, Judge; L.T. Case No.
062021CF010520A88810.

Daniel Eisinger, Public Defender, and Benjamin Nathaniel Paley,
Assistant Public Defender, West Palm Beach, for appellant.

James Uthmeier, Attorney General, Tallahassee, and Jessenia J.
Concepcion, Senior Assistant Attorney General, West Palm Beach, for
appellee.

PER CURIAM.

Affirmed. See Fleming v. State, 414 So. 3d 175 (Fla. 4th DCA 2025).

KUNTZ, C.J., MAY and FORST, JJ., concur.

* * *

Not final until disposition of timely-filed motion for rehearing.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401

June 30, 2026

CHRISTOPHER R. DALEY,
Appellant(s)

v.

STATE OF FLORIDA,
Appellee(s)

CASE NO. - 4D2025-1268
L.T. No. - 062021CF010520A88810

BY ORDER OF THE COURT:

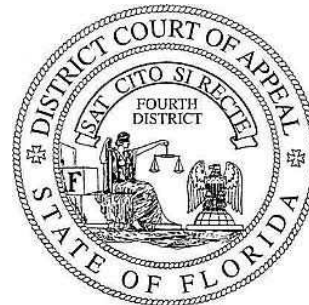
ORDERED that Appellant's May 28, 2026 motion for rehearing is denied.

Served:
Crim App WPB Attorney General
Jessenia J. Concepcion
Benjamin Paley
Sarah Elizabeth Wood Sandler
Palm Beach Public Defender

KTH

I HEREBY CERTIFY that the foregoing is a true copy of the court's order.


LONN WEISSBLUM, Clerk
Fourth District Court of Appeal
4D2025-1268 June 30, 2026



ARGUMENT

I. SECTION 790.23 VIOLATES MR. DALEY’S RIGHT TO BEAR ARMS UNDER THE UNITED STATES CONSTITUTION.

a. The standard of review is de novo.

“The constitutionality of a statute is a pure question of law subject to de novo review.” *City of Fort Lauderdale v. Dhar*, 185 So. 3d 1232, 1234 (Fla. 2016).

b. This issue did not need to be preserved, because a facial challenge to a statute’s constitutionality can be raised for the first time on appeal.

A challenge to the facial constitutionality of a statute may be raised for the first time on appeal. *N.B. v. Fla. Dep’t of Child. & Fams.*, 183 So. 3d 1186, 1187 (Fla. 3d DCA 2016); see also *Fla. Dep’t of Agric. & Consumer Servs. v. Mendez*, 98 So. 3d 604, 608 (Fla. 4th DCA 2012) (“Unlike facial challenges to a statute, as-applied challenges are subject to the rules of preservation.”).

c. The words of the United States Constitution must be interpreted based on their plain and ordinary meaning.

The Constitution “was written to be understood by the voters.” *United States v. Sprague*, 282 U.S. 716, 731 (1931). Thus, its “[w]ords are to be understood in their ordinary, everyday meanings—unless the context indicates that they bear a technical sense.” Antonin

Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* § 6, at 69 (2012).

An appellate court’s review of a facial challenge to a statute is limited. *Abdool v. Bondi*, 141 So. 3d 529, 538 (Fla. 2014). “[A] determination that a statute is facially unconstitutional means that no set of circumstances exists under which the statute would be valid.” *Fla. Dep’t of Revenue v. City of Gainesville*, 918 So. 2d 250, 256 (Fla. 2005). To make that determination, this Court must “consider only the text of the statute, not its specific application to a particular set of circumstances.” *Abdool*, 141 So. 3d at 538. Crucially, “[i]t is a fundamental principle of federal constitutional law that no state court is authorized to interpret any provision of the United States Constitution . . . in a manner [that] is contrary to United States Supreme Court decisions interpreting the same provision of the United States Constitution.” *Miami Herald Publ’g Co. v. Ane*, 423 So. 2d 376, 384–85 (Fla. 3d DCA 1982).

“As in all constitutional challenges, [a] statute comes to [this] Court clothed with the presumption of correctness and all reasonable doubts about [a] statute’s validity must be resolved in favor of con-

stitutionality.” *Dhar*, 185 So. 3d at 1234. “[T]o overcome the presumption of constitutionality, ‘the invalidity must appear beyond reasonable doubt.’” *Planned Parenthood of Sw. & Cent. Fla. v. State*, 384 So. 3d 67, 77 (Fla. 2024) (quoting *Franklin v. State*, 887 So. 2d 1063, 1073 (Fla. 2004)).

d. The Bruen test has two steps, both of which must be met for a firearm regulation to meet constitutional muster.

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.” Amend. II, U.S. Const. Because the Second Amendment protects an individual right to bear arms, “the government may not simply posit that [a firearm] regulation promotes an important interest.” *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 17 (2022). “Rather, the government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *Id.*

To do so, the Supreme Court has articulated a two-step analysis “when passing on the constitutionality of a firearm [regulation].” *Edenfield v. State*, 379 So. 3d 5, 7 (Fla. 1st DCA 2023). “First, courts must determine whether ‘the Second Amendment’s plain text covers

an individual’s conduct[.]” *Id.* (quoting *Bruen*, 597 U.S. at 24). “If so, then the ‘Constitution presumptively protects that conduct,’ and therefore, the Government ‘must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation.’” *Id.* (quoting *Bruen*, 597 U.S. at 24). “Only then may a court conclude that the individual’s conduct falls outside the Second Amendment’s ‘unqualified command.’” *Bruen*, 597 U.S. at 24 (quoting *Konigsberg v. State Bar of Cal.*, 366 U.S. 36, 50 n.10 (1961)). “To carry its burden, the state or federal government must point to ‘historical precedent from before, during, and even after the founding [that] evinces a comparable tradition of regulation.’” *Edenfield*, 379 So. 3d at 7–8 (quoting *Bruen*, 597 U.S. at 27 (internal quotation marks omitted)).

e. Section 790.23 fails to meet either step of the Bruen test and fails to meet constitutional muster.

The first step in the *Bruen* analysis is whether Mr. Daley is protected by the Second Amendment. He is, as the Second Amendment applies to “the people.” See amend. II, U.S. Const. “[T]he people . . . refers to a class of persons who are part of a national community or who have otherwise developed sufficient connection with this country

to be considered part of that community.” *District of Columbia v. Heller*, 554 U.S. 570, 580 (2008) (quoting *United States v. Verdugo-Urquidez*, 494 U.S. 259, 265 (1990)).

As can be seen, there is no felon/non-felon distinction within the term “the people” in the Second Amendment. *See also United States v. Jimenez-Shilon*, 34 F.4th 1042, 1046 (11th Cir. 2022) (describing felons as “indisputably part of ‘the people’” under the Second Amendment); *United States v. Meza-Rodriguez*, 798 F.3d 664, 671 (7th Cir. 2015) (holding that a person’s criminal record is irrelevant in determining whether the person is among “the people” protected under the Second Amendment). Thus, Mr. Daley has met his burden to show that he is part of “the people.”

Now the burden shifts to the State to show that an historical tradition exists that supports permanently dispossessing felons of firearms even after they have completed their sentences. Here, the State cannot meet this burden, as there is no historical analogue of the government permanently dispossessing a person of firearms after they had completed their sentences because of their felon status. The historical record shows only dispossession laws that were temporary in nature and/or involved an individualized determination from a

judge that a person was dangerous. Being dangerous, however, is not synonymous with being a felon, and being a felon does not mean they are dangerous. Interestingly, none of those laws dispossessed people because of their status as a felon.

In *Kanter v. Barr*, 919 F.3d 437 (7th Cir. 2019), then-Judge Barrett stated that although “[t]he historical evidence . . . support[s] . . . that [a] legislature may disarm those who have demonstrated a proclivity for violence or whose possession of guns would otherwise threaten the public safety,” that does not support “the proposition that the legislature can permanently deprive felons of the right to possess arms simply because of their status as felons.” *Id.* at 454.

Recently, in *United States v. Rahimi*, 602 U.S. 680 (2024), the Supreme Court held, in its first post-*Bruen* Second Amendment case, that a person who was subject to a domestic violence restraining order and was found to represent a credible threat could be temporarily circumscribed from possessing a firearm. *Id.* at 702. The Court concluded that such a prohibition was facially constitutional because the nation’s tradition of firearm regulation allows the government to **temporarily** disarm dangerous/violent individuals so long as they present a credible threat to the physical safety of others. *Id.* at 692.

The key in *Rahimi* is that there was a finding that Mr. Rahimi represented a credible threat. Thus, at the point in time Mr. Rahimi no longer represents a credible threat, he will be allowed to once again possess firearms. *See id.* (“[I]f laws at the founding regulated firearm use to address particular problems, that will be a strong indicator that contemporary laws imposing similar restrictions for similar reasons fall within a permissible category of regulations.”); *id.* at 699 (“Moreover, like surety bonds of limited duration, Section 922(g)(8)’s restriction was temporary as applied to Rahimi. Section 922(g)(8) only prohibits firearm possession so long as the defendant ‘is’ subject to a restraining order. § 922(g)(8). In Rahimi’s case that is one to two years after his release from prison, according to Tex. Fam. Code Ann. § 85.025(c) (West 2019). App. 6–7.”).

Here, no set of circumstances exists under which section 790.23(1) could be constitutionally applied, as it permanently deprives any felon (violent or nonviolent) of possessing firearms after they have completed the terms of their sentence, and without an individualized determination that they present a credible threat to the

community.² Unlike in *Rahimi*, section 790.23(1) permanently dispossess felons of any firearm; it is not a one-to-two year ban; and it provides no mechanism for getting the right to bear arms returned after a number of years have passed or circumstances have changed. In fact, no prior firearm regulation has ever categorically and permanently restricted people from possessing firearms because they are a felon, even after their sentence was complete.

In addition, many of the prior dispossession laws disposed people because of their religious affiliation or government loyalty. Those are hardly comparable to felon dispossession laws, as laws that dispossessed people because of their religious status or government loyalty would hardly pass constitutional muster today. Furthermore, those laws did not dispossess people due to their status as a felon—a crucial distinction in this case.

Finally, although Florida allows a felon to petition to restore his/her right to bear arms, that process still means that a felon is

² Mr. Daley is not saying that the State cannot prohibit a felon from possessing firearms while serving a life sentence. In fact, Mr. Daley acknowledges that the State is justified in doing so under its authority to regulate prisons. See § 944.47(1)(a)5., Fla. Stat. (2021) (prohibiting inmates from possessing firearms or weapons of any kind in state prisons).

prohibited from exercising a constitutional right for an indefinite period of time (and the petition process is not even guaranteed to end in a restoration of rights). Constitutional rights (like the right to bear arms) are natural rights that belong to the people, not to the government. See Bradley Rebeiro, *History, Tradition, and Natural Rights*, 47 Harv. J.L. & Pub. Pol’y 713, 732 (2024). In fact, the Constitution’s purpose is to place limits on the government’s ability to infringe on the people’s natural rights. *Id.* Thus, the government cannot take away a person’s constitutional rights for an indefinite period of time—even if the government offers a petition process for restoring those rights.

This is not to say that the government can’t take away certain privileges from felons. In fact, the government may prohibit a person who is a felon from voting until they successfully petition to restore their rights, as voting is not a right enshrined in the United States Constitution. See art. VI, § 4, Fla. Const. Florida’s petition process, however, does not excuse Florida from denying people their right to bear arms, or any other constitutional right, because of their status as a felon.

Because section 790.23(1) is a permanent ban that goes beyond the sentence imposed by the trial court, it is not analogous to any prior firearm regulation. Thus, this Court should reverse Mr. Daley's conviction and sentence.

II. SECTION 790.23 VIOLATES MR. DALEY'S RIGHT TO BEAR ARMS UNDER THE FLORIDA CONSTITUTION.

a. The standard of review is de novo.

"The constitutional validity of a law is a legal issue subject to *de novo* review by this [C]ourt." *Norman v. State*, 159 So. 3d 205, 210 (Fla. 4th DCA 2015).

b. This issue did not need to be preserved, because a facial challenge to a statute's constitutionality can be raised for the first time on appeal.

A challenge to the facial constitutionality of a statute may be raised for the first time on appeal. *N.B.*, 183 So. 3d at 1187; *see also Mendez*, 98 So. 3d at 608 ("Unlike facial challenges to a statute, as-applied challenges are subject to the rules of preservation.").

c. The words of the Florida Constitution must be interpreted based on their plain and ordinary meaning.

An appellate court's review of a facial challenge to a statute is limited. *Abdool*, 141 So. 3d at 538. "[A] determination that a statute is facially unconstitutional means that no set of circumstances exists