

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2026

DAMION KENT HALLMON,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE EIGHTH CIRCUIT

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QUESTION PRESENTED FOR REVIEW

Whether 18 U.S.C § 922(g)(1) prohibiting all felons from possessing firearms violates the Second Amendment either on its face or based on an as applied challenge?

LIST OF ALL PARTIES TO PROCEEDINGS

Damion Kent Hallmon - Petitioner, Defendant in district court proceedings

United States of America - Respondent, Plaintiff in district court proceedings

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Petitioner Damion Kent Hallmon respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Eighth Circuit, filed on April 24, 2026.

OPINION BELOW

The opinion of the Court of Appeals for the Eighth Circuit that is the subject of this petition is reported in *United States v. Hallmon*, 173 F.4th 976 (8th Cir. 2026), and is reprinted in the appendix hereto, p. 10A-25A, infra. The Eighth Circuit denied a petition for rehearing en banc or panel rehearing in an order filed on June 18, 2026. (Appendix 26A).

The final judgment of the United States District Court for the District of Minnesota and rulings (District Judge Katherine M. Menendez) that are the subject of this Petition have not been reported. The document deemed relevant to this Petition are reprinted in the Appendix.

JURISDICTION

Petitioner Damion Kent Hallmon was convicted for felon in possession of ammunition in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(8). He was sentenced to 74 months imprisonment by Judge Katherine M. Menendez, United States District Judge for the District of Minnesota. Sentence was imposed on April 26, 2024 and final judgment was entered on April 19, 2024. Mr. Hallmon timely appealed his sentence.

The United States Court of Appeals for the Eighth Circuit affirmed Mr. Hallmon's conviction and sentence on April 24, 2024, and denied his petition for rehearing en banc or panel rehearing on June 18, 2026. Mr. Hallmon now timely files this petition for writ of certiorari.

The jurisdiction of this Court to review the judgments of the Eighth Circuit is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS

United States Constitution, Second Amendment - "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."

STATEMENT OF THE CASE

On August 28, 2022, Petitioner Damion Kent Hallmon was arrested in a shopping center parking lot in Bloomington, Minnesota. The incident began with a traffic stop based on an object hanging from the vehicle's rearview mirror and the police officer's license plate query indicating that the vehicle's registered owner had a suspended license. Mr. Hallmon was the driver. The police officer conducting the stop claimed that he had reason to believe that there was marijuana in the vehicle. The officer searched the vehicle and found a loaded pistol in a handbag in the front passenger seat. Although the handbag belonged to Mr. Hallmon's female partner, upon questioning by the police officer about the firearm, Mr. Hallmon stated he was "taking the fall" and indicated that it belonged to him.

Mr. Hallmon was initially charged in state court with being a felon in possession of a firearm. He was subsequently indicted in the United States District of Minnesota for felon in possession of ammunition in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(8).¹ Mr. Hallmon's prior felony convictions included non-violent drug offenses, receiving stolen property, forgery, and felon in possession of a firearm. He did not have any prior violent convictions.²

¹ Mr. Hallmon was not federally charged for the actual firearm because it was a "ghost gun" and there was no evidence that it had traveled in interstate commerce.

² A trial court conviction for robbery was vacated and reversed on appeal due to insufficient evidence.

Mr. Hallmon filed a motion to dismiss the charge against him on the grounds that 18 U.S.C. § 922(g)(1) is unconstitutional on its face and applied to him under the Second Amendment, and appealed the denial of the motion. (Appendix 8A, 24A). Both the district court and Eighth Circuit held that Mr. Hallmon's argument was foreclosed by binding Eighth Circuit precedent. (Appendix 8A-9A, 24A-25A).

REASONS FOR ALLOWANCE OF THE WRIT

This case presents an opportunity for the Court to address an important issue defining the scope of Second Amendment protection in light of its seminal decision in New York State Rifle & Pistol Ass'n, Inc. v. Bruen, 142 S. Ct. 2111, 2127, 213 L. Ed. 2d 387 (2022). This case further presents an opportunity for the Court to resolve a conflict among United States courts of appeal in different circuits as to whether 18 U.S.C. § 922(g)(1) is subject to constitutional challenge.

Bruen held that in order to prohibit possession of firearms, the government "must 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." 142 S. Ct. at 2127. In response to this decision, numerous federal criminal defense have challenges to the constitutionality of the blanket criminalization of anyone convicted of any felony possessing a firearm or ammunition. Different circuit courts of appeals have reached different conclusion.

The Eighth Circuit, where the instant case originated, has clearly and repeatedly

held that § 922(g)(1) does not violate the Second Amendment either on its face or under any as applied challenge. United States v. Cunningham, 114 F.4th 671, 675 (8th Cir. 2024); United States v. Jackson, 110 F.4th 1120, 1125 (8th Cir. 2024). The Jackson decision was issued after this Court had remanded it to the Eighth for further consideration in light of United States v. Rahimi, 602 U.S. 680, 144 S.Ct. 1889 (2024) which analyzed an as applied challenge to 18 U.S.C.S. § 922(g)(8), prohibiting a person subject to a domestic abuse restraining order. Jackson v. United States, 144 S.Ct. 2710 (2024).

It is notable that even though the Eighth Circuit as whole has found unconditionally that § 922(g)(1) is constitutionally, four judges of that court dissented from the denial of rehearing en banc in Jackson, contending that under Bruen the government must demonstrate that the ban on possession a firearm by a felon is consistent with "Nation's historical tradition of firearms regulation." United States v. Jackson, 85 F.4th 468, 469 (8th Cir. 2023)(Stras dissenting). The dissenting opinion concluded, "There is nothing about felon-dispossession laws that is longstanding" and that at the time of the ratification of the Second Amendment, being a criminal did not result in losing the right to bear arms. Id at 472.

Based on Bruen, multiple other circuits have held that the constitutionality of § 922(g)(1) under the Second Amendment must be evaluated on a case-by-case basis. Range v. AG United States, 69 F.4th 96, 103 (3rd Cir. 2023) held that the plaintiff in that

case (a civil challenge to the constitutionality of the statute) could not be prohibited from possessing firearms based on a prior felony conviction for a false statement. Range found that there were no founding-era laws relating to firearms that precluded a convicted who had served his sentence from purchasing a firearm. Id. at 105. It noted that the original Federal Firearms Act of 1938 applied covered certain violent crimes but was amended in 1961 to include all felonies. Id. at 104. Range concluded, "Because the Government has not shown that our Republic has a longstanding history and tradition of depriving people like Range of their firearms, § 922(g)(1) cannot constitutionally strip him of his Second Amendment rights." Id. at 106. Range was remanded by the Supreme Court for further consideration in light of its subsequent decision in Rahimi. Garland v. Range, 144 S. Ct. 2706 (2024). The Third Circuit again conducted a Second Amendment analysis and determined that § 922(g)(1) was unconstitutional as applied to the plaintiff. Range v. AG United States, 124 F.4th 218 (3rd Cir. 2024).

The Fifth Circuit has also held that § 922(g)(1) is unconstitutional as applied to a felon convicted of failing to pay child support. United States v. Cockerham, 162 F.4th 500, 506-07 (5th Cir. 2025). United States v. Mitchell, 160 F.4th 169 (5th Cir. 2025) also held § 922(g)(1) to be unconstitutional as applied to a person whose prior felony conviction was possessing a firearm as an unlawful user of marijuana. Most recently the Fifth Circuit in United States v. Debrow, 183 F.4th 402 (5th Cir. 2026), vacated a conviction under § 922(g)(1) based on the defendant's previous predicate conviction for

aggravated damage to property.

The First, Second, Sixth and Seventh Circuits, although not yet explicitly finding § 922(g)(1) to be unconstitutional, have entertained as applied challenges based on the standards set forth in Bruen. United States v. Langston, 110 F.4th 408, 419-20 (1st Cir. 2024) (rejecting an as-applied challenge because there was no "plain" error); United States v. Caves, No. 23-6176, 2024 U.S. App. LEXIS 32678, 2024 WL 5220649, at *1 (2d Cir. Dec. 26, 2024) (same)³; United States v. Williams, 113 F.4th 637, 661-62 (6th Cir. 2024) (rejecting an as-applied challenge because the defendant's criminal record showed that he was sufficiently dangerous to justify disarmament); United States v. Gay, 98 F.4th 843, 846-47 (7th Cir. 2024) (assuming without deciding that an as-applied challenge could generally proceed but rejecting the defendant's specific challenge because his prior felonies encompassed aggravated battery of a peace officer and possession of a weapon while in prison); United States v. Watson, 171 F.4th 1012 (7th Cir. 2026) (employing a Bruen analysis to an as applied challenge to § 922(g)(1) and holding that a prior drug dealing conviction justified disarming the defendant).

This Court recently recognized,

Lower court cases addressing the constitutionality of the federal ban on firearm possession by felons, see 18 U. S. C. §922(g)(1), provide a stark example of this inconsistency. Compare, *e.g.*, United States v. Cockerham, 162 F. 4th 500, 504 (CA5 2025) (holding that §922(g)(1) is unconstitutional

³ However, the Second Circuit more recently held that 18 U.S.C. § 922(g)(1) was constitutional as applied to non-violent felons. Zherka v. Bondi, 140 F.4th 68 (2nd Cir. 2025)

as applied to a defendant whose prior conviction was for failing to pay child support), and Range v. Atty. Gen., 124 F. 4th 218, 232 (CA3 2024) (en banc) (same, where the prior conviction was for making a false statement to obtain food stamps), with United States v. Duarte, 137 F. 4th 743, 761-762 (CA9 2025) (categorically affirming the constitutionality of §922(g)(1) as applied to nonviolent felons), and United States v. Jackson, 110 F. 4th 1120, 1125, 1129 (CA8 2024) (similar).

United States v. Hemani, 146 S. Ct. 1677, 1698 n. 1 (2026)(J. Jackson

concurrency)(holding unanimously that 18 U.S.C. § 922(g)(3) prohibiting drug users from possessing firearms was unconstitutional as applied to a regular user of marijuana).

The drastically disparate responses to challenges to the constitutionality of 18 U.S.C. § 922(g)(1) among different circuits necessitates that the Court provide guidance as to whether this provision is subject to constitutional challenge and potentially the proper standards for the lower courts to apply. The Eighth Circuit is at the far end of the spectrum of positions in categorically upholding the constitutionality of § 922(g)(1) and refusing to even consider any challenges on a case-by-case basis. The case of Mr. Hallmon, whose prior felony convictions are for non-violent offenses, presents a good vehicle for the Court to set forth rules of law on this extremely common issue.

CONCLUSION

Petitioner Damion Kent Hallmon respectfully prays that a writ of certiorari issue.

Respectfully submitted,

Dated: September 29, 2026

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