No. ____

In The
Supreme Court of The United States

Jojuan Lindsey,

***Petitioner*,**

v.

United States of America,

***Respondent*.**

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

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Petition For Writ Of Certiorari

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QUESTION PRESENTED

Whether 18 U.S.C. § 922(g)(1) exceeds Congress's authority under the Commerce Clause, facially and as applied to intrastate firearm possession.[1]

[1] This petition presents the same Commerce Clause question as *Stewart v. United States*, No. 26-5131, *Antunez-Galarza v. United States*, No. 26-5188, and *Ayala v. United States*, No. 26-5243, all of which have been distributed for the November 6, 2026 conference

PARTIES TO THE PROCEEDING

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below:

United States of America

Jojuan Lindsey.

RELATED PROCEEDINGS

The following is a list of all proceedings in state and federal trial and appellate courts, including proceedings in this Court, that are directly related to the case in this Court:

United States v. Lindsey, No. 24-13953, U.S. Court of Appeals for the Eleventh Circuit, Judgment entered on June 23, 2026, and Petition for Panel Rehearing denied on August 4, 2026.

United States v. Lindsey, No. 8:23-cr-00071-KKM-SPF, U.S. District Court for the Middle District of Florida, Judgment entered on December 3, 2024.

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PETITION FOR A WRIT OF CERTIORARI

Jojuan Lindsey respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit.

ORDER AND OPINION BELOW

The Eleventh Circuit's unpublished opinion affirming Mr. Lindsey's conviction and sentence is provided in **Appendix A**. The Eleventh Circuit's order denying Mr. Lindsey's timely filed petition for panel rehearing is provided in **Appendix B**.

JURISDICTION

The Eleventh Circuit issued its opinion and judgment on June 23, 2026. On July 14, 2026, Mr. Lindsey filed a petition for panel rehearing in the Eleventh Circuit Court of Appeals. App. Doc 42.[2] The Eleventh Circuit denied the petition for rehearing on August 4, 2026. App. Doc 44. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254.

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

Article I of the United States Constitution states that "Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." U.S. Const., Art. I, § 8, cl. 3.

Section 922(g)(1) of Title 18 of the United States Code states, "It shall be unlawful for any person . . . who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year . . . to . . . possess in or affecting commerce, any firearm or ammunition."

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[2] "Doc." references the district court docket entries. "App. Doc." references the appellate court docket entries.

STATEMENT OF THE CASE

After a traffic stop, police searched Mr. Lindsey's rental car and found a gun and ammunition, amongst other items. Doc. 30 at 7. The firearm was a Glock 42 .380 handgun that was manufactured in Georgia, and the ammunition was manufactured in Oklahoma. Doc. 99 at 3.

As a result, Mr. Lindsey was indicted on one count of possessing a firearm "in and affecting commerce" as a convicted felon, in violation of 18 U.S.C. § 922(g)(1). Doc. 1 at 1-2. After litigating a motion to suppress, he proceeded to a stipulated bench trial where the court found him guilty of possessing a firearm as a convicted felon. *See generally* Doc. 30; Doc. 127; *see also* Doc. 101 at 1; Doc. 125 at 3, 14-15. To prosecute him federally for this possession in Florida, the government relied on the manufacture of the firearm and ammunition outside of Florida, and the conclusion that they "therefore traveled through and affected interstate commerce to get to Florida." Doc. 99 at 3. The district court imposed a 150-month sentence. Doc 114.

On appeal, Mr. Lindsey did not challenge his § 922(g)(1) conviction on the ground that the statute plainly exceeds Congress's Commerce Clause authority. Such a claim is currently foreclosed by Eleventh Circuit precedent. *United States v. Edwards*, 142 F.4th 1270, 1285 (11th Cir. 2025), *cert. denied*, 146 S. Ct. 903 (2025); *United States v. Scott*, 263 F.3d 1270, 1274 (11th Cir. 2001).

On July 14, 2026, Mr. Lindsey timely petitioned for panel rehearing. The Eleventh Circuit denied his petition. Petition Appendix B.

REASONS FOR GRANTING THE WRIT

This Court's review is warranted on the important and recurring question of whether Congress's Commerce Clause authority empowers it to criminalize intrastate firearm and ammunition possession in 18 U.S.C. § 922(g)(1)

Congress has made it criminal for nine categories of individuals, including felons, to possess firearms. 18 U.S.C. § 922(g)(1)-(9). The time for reviewing the constitutionality of § 922(g) is ripe. *See United States v. Hemani*, 608 U.S. 772, 796-97 (2026) (Thomas, J., concurring) ("Section 922(g) appears to exceed Congress's powers under the Commerce Clause."); *see also United States v. Bonner*, 159 F.4th 338, 340-43 (5th Cir. 2025) (Willett, J., joined by Duncan, J., concurring ("*Bonner*")) ("harbor[ing] doubts that § 922(g)(1) is constitutional" under Congress's Commerce Clause authority); *United States v. Hembree*, 165 F.4th 909, 919-21 (5th Cir. 2026) (Willett, J., concurring) (reiterating openness "to reconsidering whether § 922(g)(1) truly falls within Congress's enumerated powers"), *cert denied*, --- S. Ct. ---- , 2026 WL 2976154 (Oct. 5, 2026) (presenting Second Amendment question).[3]

Section 922(g) is one of the most commonly prosecuted federal offenses. In fiscal year 2025, of the more than 66,000 cases reported to the Sentencing Commission, over 7,200 (or 10.9%) involved convictions under § 922(g). *See* United States Sentencing Commission, Quick Facts: 18 U.S.C. § 922(g) Firearms Offenses Fiscal Year 2025, *available at* https://www.ussc.gov/research/quick-facts/section-

[3] On July 20, 2026, the Fifth Circuit granted rehearing en banc on a petition raising a Commerce Clause challenge to § 922(g)(1) and will be orally argued in January 2027. *See United States v. Squire*, 182 F.4th 988 (5th Cir. 2026).

922g-firearms (last visited Oct. 22, 2026). Of those, 89% were § 922(g)(1) convictions. *Id.*

Yet, under our Constitution, Congress lacks plenary power to "'punish felonies generally.'" *Bonner*, 159 F.4th at 340-41 & n.6 (quoting *Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264, 428 (1821)). General police power is reserved to the states, leaving Congress with only those powers enumerated in the Constitution. *Id.* at 340-41 & n.3 (citing *United States v. Morrison*, 529 U.S. 598, 607 (2000)); *United States v. Lopez*, 514 U.S. 549, 566-67 (1995).

Congress purports to rely on its Commerce Clause authority to criminalize firearm possession. *See* 18 U.S.C. § 922(g) (proscribing possession "in or affecting commerce").[4] But possession of a firearm by a felon, just like possession of a firearm in a school zone, "has nothing to do with 'commerce' or any sort of economic enterprise, however broadly one might define those terms." *Lopez*, 514 U.S. at 561; *id.* at 551-52 (affirming Fifth Circuit's decision concluding that 18 U.S.C. § 922(q), which proscribed possessing a firearm in a school zone, exceeds Congress's Commerce Clause authority); *see Hemani*, 608 U.S. at 798 (Thomas, J., concurring) ("The mere possession of a firearm that long ago crossed state lines is not 'economic activity' in any sense"). Nor can § 922(g)(1) be defended by aggregating the effect of all felon firearm possession. *Hemani*, 608 U.S. at 798 (Thomas, J., concurring) (citing *Morrison*, 529 U.S. at 617); *see Bonner*, 159 F.4th at 342 & n.18 ("[A]ggregation is

[4] Congress has the power "[t]o regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." U.S. Const., Art. I, § 8, cl. 3.

ordinarily appropriate only when the underlying activity is economic—and firearm possession is not") (citing *Lopez*, 514 U.S. at 567).

Mr. Lindsey and other § 922(g) defendants' convictions instead rest on the theory that Congress can criminalize the possession of a firearm so long as the firearm crossed state lines at some unknown point in the past. *See Hemani*, 608 U.S. at 798 (Thomas, J., concurring); *Edwards*, 142 F.4th at 1285. This theory, however, does not accord with the original meaning of the Commerce Clause. *See Hemani*, 608 U.S. at 797 (Thomas, J., concurring).

Nor does this theory provide any real limit to Congress's Commerce Clause authority. As several Fifth Circuit judges have written:

> If it's enough that some object (or component of an object) at some unknown (and perhaps unknowable) point in time traveled across state lines to confer federal jurisdiction, it's hard to imagine anything that would remain outside the federal government's commerce power. There is no plausible reading of the Commerce Clause, as originally understood by our Founders, that could possibly give the federal government such reach.

United States v. Seekins, 52 F.4th 988, 990 (5th Cir. 2022) (Ho, J., joined by Smith, Engelhardt, JJ., dissenting from denial of rehearing en banc) (citing *Lopez*, 514 U.S. at 585-87 (Thomas, J., concurring)).[5]

[5] In further support, the Fifth Circuit judges cited Randy E. Barnett, *The Original Meaning of the Commerce Clause*, 68 U. Chi. L. Rev. 101, 146 (2001) ("The most persuasive evidence of original meaning . . . strongly supports Justice Thomas's and the Progressive Era Supreme Court's narrow interpretation of the Congress's power [under the Commerce Clause]."); William J. Seidleck, *Originalism and the General Concurrence: How Originalists Can Accommodate Entrenched Precedents While Reining in Commerce Clause Doctrine*, 3 U. Pa. J. L. & Pub. Affs. 263, 269 (2018) ("The founding generation understood the term 'commerce' to mean only 'trade or exchange of goods.'. . . The writings of the framers and the purpose behind the

The theory that Congress can criminalize an item's possession based on its place of manufacture originates not from the Commerce's text or history but from lower appellate courts' misapplication of this Court's decisions. *See Hemani*, 608 U.S. at 799-802 (Thomas, J., concurring). Some courts have followed *Scarborough v. United States*, 431 U.S. 563 (1977). *See, e.g.*, *United States v. Nichols*, 124 F.3d 1265, 1266 & n.1 (11th Cir. 1997); *United States v. Rawls*, 85 F.3d 240, 242-43 (5th Cir. 1996) (collecting cases); *see also Bonner*, 159 F.4th at 343 ("Our reliance on *Scarborough* combines these fears: our decisions now expand federal power not by remote implication from the constitutional text, but by remote implication from our own precedents").

In *Scarborough*, this Court construed § 922(g)(1)'s predecessor and concluded that there was no indication Congress "intended to require any more than the minimal nexus that the firearm have been, at some time, in interstate commerce." 431 U.S. at 575. But Congress's statutory intention and its constitutional authority are different questions. *Scarborough*, which pre-dated *Lopez*, dealt only with the former, statutory interpretation question. *Hemani*, 608 U.S. at 800 (Thomas, J., concurring); *see Seekins*, 52 F.4th at 991 (Ho, J., joined by Smith, Engelhardt, JJ., dissenting from denial of rehearing en banc) (opining that "our reliance on *Scarborough* was erroneous" because "the Court's holding in *Scarborough* was statutory, not constitutional" and "*Scarborough* pre-dates *Lopez*"); *Bonner*, 159 F.4th

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creation of the Commerce Clause also confirm its intended narrow scope."). *Id.* at 990-91.

at 342 & n.22 ("*Scarborough* addresses only questions of statutory construction, and does not expressly purport to resolve any constitutional issue.") (citation and internal quotation marks omitted).

Some courts have also pointed to § 922(g)'s purported "jurisdictional hook"—"in or affecting commerce"—to conclude the statute passes constitutional muster under *Lopez* and *Morrison*. *Hemani*, 608 U.S. at 801 (Thomas, J., concurring) (collecting cases); *see Edwards*, 142 F.4th at 1285. *Lopez*, however, "considered a jurisdictional hook helpful only if it 'would ensure, through case-by-case inquiry, that the firearm possession in question affects interstate commerce.'" *Hemani*, 608 U.S. at 801 (Thomas, J., concurring) (quoting *Lopez*, 514 U.S. at 561). Section 922(g)'s purported "jurisdictional hook" fails in this regard because it does not require that a defendant's firearm possession affect interstate commerce. *Id.* at 801-02.

Mr. Lindsey's case presents an excellent opportunity to resolve this important constitutional question. His offense, possession, was local and non-economic; he possessed a firearm and ammunition driving a car in Florida. But § 922(g)(1) was applied to him based on the manufacture of the firearm and ammunition, at some point in the past, outside of Florida.

Accordingly, only this Court can resolve this important constitutional question. This Court should grant certiorari on this issue, which affects thousands of criminal defendants, to ensure that Congress's Commerce Clause power is "read carefully to avoid creating a general federal authority akin to the police power." *Seekins*, 52 F.4th at 990 (Ho, J., joined by Smith, Engelhardt, JJ., dissenting from denial of rehearing

en banc) (quoting *NFIB v. Sebelius*, 567 U.S. 519, 536 (2012)) (internal quotation marks omitted).

CONCLUSION

For the foregoing reasons, the petition should be granted or held for this Court's consideration of the other petitions that present the same question.

Respectfully submitted,

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