No. ____

In the
Supreme Court of the United States

HATCHET M. SPEED,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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October 30, 2026

QUESTIONS PRESENTED FOR REVIEW

I. Whether the National Firearm Act's registration requirements and criminal prohibition on the unregistered possession of silencers (26 U.S.C. §§ 5841, 5861(d)) remain a valid exercise of Congress's taxing power – or any enumerated power allowing the law to remain Constitutional with continued prosecution of Mr. Speed or anyone – after Congress reduced the making and transfer taxes on silencers to zero dollars.

Petitioner requests a Grant, Vacate, and Remand (GVR) because the issue was not examined at the United States Fourth Circuit Court of Appeals when it issued its Opinion affirming Mr. Speeds' conviction and intervening factors and a structural change require further review.

II. Whether a full, complete, and unconditional presidential pardon for offenses related to the events of January 6, 2021—effectuated by the Attorney General and Bureau of Prisons through the defendant's immediate release in the early morning of January 21, 2025—renders the judgment of conviction and any term of supervised release unenforceable, requiring vacatur of the court of appeals' affirmance when the pardon was not raised below.

Petitioner requests a Grant, Vacate, and Remand (GVR) because the Circuit Court did not examine the issue. The executing authority for the Pardon Proclamation released him from prison before his sentence for his conviction in this case was close to being complete. That executive action effectuated the pardon as to his custody. Probation Services, who works for the Judiciary, told Mr. Speed he was on supervised release, meaning he was still confined with an active sentence. There was encroachment on the Executive Branch and there was no due process, or any process, where no one in the DOJ or its Bureau of Prisons said there had been a mistake in his release.

LIST OF PARTIES TO THE PROCEEDING

The parties to this case are Hatchet M. Speed, Petitioner and the United States of America, Respondent.

RELATED CASES

Pursuant to Supreme Court Rule 14.1(b)(iii), the following proceedings are directly related to this case:

United States of America v. Hatchet M. Speed, United States Court of Appeals for the Fourth Circuit, Case No. 23-4308; Opinion and Judgment entered May 5, 2026; Rehearing denied June 2, 2026.

United States of America v. Hatchet M. Speed, United States District Court Eastern District of Virginia; 1:22-cr-00165; Judgment entered April 13, 2023.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Hatchet M. Speed respectfully requests a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case, and respectfully requests that the Court Grant this petition, Vacate the decision below, and Remand so that the Fourth Circuit can consider the changed statutory foundation upon which its decisions regarding Second Amendment issues were made, and consider the Presidential Pardon which was encroached by the Judicial Branch with violation of "Separation of Powers" and the Fifth Amendment's Due Process clause. Both the Second Amendment and Pardon issues involve intervening events.

OPINIONS BELOW

United States of America v. Hatchet M. Speed, United States Court of Appeals for the Fourth Circuit, Case No. 23-4308; Opinion, entered May 5, 2026, is found published at *United States v. Speed*, 175 F.4th 272 (4th Cir. 2026); and is reproduced at App. A, 002a-021a.

United States of America v. Hatchet M. Speed, United States Court of Appeals for the Fourth Circuit, Case No. 23-4308; Notice of Judgment filed May 5, 2026, is unpublished (Doc: 112-1) and is reproduced at App. B, 022a – 024a.

United States of America v. Hatchet M. Speed, United States Court of Appeals for the Fourth Circuit, Case No. 23-4308; Order Denying Rehearing en banc, filed June 2, 2026, is found unpublished at 2026 U.S. App. LEXIS 15999 *; 2026 LX 218080; Reproduced at App. D, 032a.

United States of America v. Hatchet M. Speed, United States District Court Eastern District of Virginia; 1:22-cr-00165; Judgment entered April 13, 2023, at ECF No.156, was unpublished and is reproduced at App. C, 025a – 031a.

JURISDICTIONAL STATEMENT

The United States Court of Appeals for the Fourth Circuit filed its Opinion affirming Mr. Speed's conviction May 5, 2026, (App. A) with denial of a hearing en banc (App. D) on June 2, 2026. This Petition for Writ of Certiorari is filed timely after grant of an Application (26A190) on August 11, 2026, for an extension until October 30, 2026, pursuant to U.S. Supreme Court Rules 13.5 and 30. The Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Constitutional provisions of **USCS Const. Art. II, § 2, Cl 1** and **USCS Const. Amend. 5** are contained in Appendix H at 076a – 077a.

Amendment 2 Right to bear arms. "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." USCS Const. Amend. 2

Art. III, Cl 1. Subjects of jurisdiction. "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority . . . ." USCS Const. Art. III, § 2, Cl 1

Executive Order. The President's January 6th **Pardon Proclamation 10887** of January 20, 2025, from the Federal Register is contained in Appendix I at 078a – 079a.

The **National Firearms Act's (NFA)** relevant statutory provisions of 26 USCS §§ 5812; 5841; 5845; 5861; 5871 are contained in Appendix J at 080a – 088a.

The changed Department of Justice(DOJ) / Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) policy regarding enforcement of the NFA is in the Director ATF's letter, contained in Appendix F at 035a – 037a.

STATEMENT OF THE CASE

INTRODUCTION.

As a concerned citizen, software engineer and developer, U.S. Navy reservist/veteran, and defense contractor with a security clearance and no criminal background, Hatchet Speed attended the January 6, 2021, rally and then went to the United States Capitol where he believed he could be present. He committed no violence. As a peaceful protestor he was exposed to chemical munitions by police who fired indiscriminately into the crowd. He was inside the building for a short period, peacefully. He made no attempt to go into either chamber or do anything against any member of Congress or law enforcement. He carried no weapon. He may have been upset about the behavior of law enforcement and that Vice President Pence was intending to validate the electoral certificates, but his emotions led to no violent behavior by him.

I. The National Firearms Act, Changes, and the Pardon. App. I, J.

After January 6, 2021, he had no expectation that he would be investigated or charged with any crime. As a gun enthusiast who believed his disposable income could be freely spent on legal firearms, silencers, scopes, and associated accessories, Mr. Speed was unaware that the FBI and ATF began targeting him by March 2021 as a January 6th attendee who was both a Proud Boy and who owned firearms, to include multiple legally purchased and registered silencers. The government readily sought and obtained his silencer registration data. It went to the local federal firearms licensed (FFL) dealers where he had filed Form 4473s for the background check required for firearms purchases and which may only be held locally. The government obtained all his firearms purchases from approximately the year prior to January 6, 2021, and then afterwards, and listed those items in the search warrant when they raided his home and storage unit. Mr. Speed's firearms' purchases after January 6th were characterized as "panic buying" in a narrative created

by the government for emotional appeal to a jury called from an area of anti-gun sentiment in this case. Despite the Second Amendment to the Constitution, his spending thousands of his legally earned dollars on legal firearms became nefarious, for consideration as criminal, by narrative.

The government secretly investigated him through and after his arrest in June 2022 by issuing subpoenas and requests across a broad spectrum of service providers (including banks) to look for financial transactions, emails, texts, locations, purchases, internet use and more - all under the resources and investigation related to January 6th. The government obtained and executed a single search warrant of his home, vehicles, and storage unit that identified items to be seized – including firearms/silencers – all under the auspices of a January 6th investigation and resources (*particularly budget and personnel*) for January 6th. (Sealed "Search Warrant" 1:22-SW-346 to -351). The government didn't stop with just looking at what could at most have been trespass and loud speech within a crowd on January 6, 2021. The charges which the Washington Field Office (WFO) expended vast resources combing through Mr. Speed's life from over a year prior to January 6th using insertion of a UCE, with added aerial and ground surveillance were:[1]

18 U.S.C. § 1752(a)(l) - Entering and Remaining in a Restricted Building or Grounds
18 U.S.C. § I 752(a)(2) - Disorderly and Disruptive Conduct in a Restricted Building or Grounds
40 U.S.C. § 5104(e)(2)(D) - Disorderly Conduct in a Capitol Building
40 U.S.C. § 5104(e)(2)(G) - Parading, Demonstrating, or Picketing in a Capitol Building

The search warrant was expansive and general. He was investigated as a threat for legally exercising his Second Amendment rights, as well as his First Amendment right to express ideas,

[1] After Mr. Speed declined to plea in the D.C. case, a superseding indictment was added with the felony charge of 18 U.S.C. § 1512. In June 2024, this Court found the D.D.C. and D.C. Circuit were misinterpreting and misapplying the statute in the case of Joseph Fischer and petitioners. In July 2024 the government opposed (and prevailed in argument) Mr. Speed's § 2255 to vacate the § 1512 charge, where by law as held here, he was innocent and the indictment defective. The Court ordered the matter to proceed on his existing direct appeal (where briefs were still in progress) rather than resentencing Mr. Speed without the § 1512.

question history, and consider future possibilities of how this nation might turn. His unrelated protected speech was a centerpiece at trial to prejudice the jury, over defense objections. The DOJ and those investigating for January 6th prosecutions based investigative actions on the (false) predicate and political narrative that every January 6 defendant was a domestic terrorist, and as a gun owner Mr. Speed went to the top of the list for expense of government resources.

The investigation ebbed only when the government found nothing to confer terrorism, sedition, and conspiracy charges between Mr. Speed and the Proud Boys, who were facing trial at the end of 2022 and into early 2023. Demonstrating the power of government weaponization, when Mr. Speed would not accept a plea in the D.D.C., the solvent traps seized in June 2022 were declared unregistered and untaxed silencers as DOJ then brought a separate case in September 2022 in the Eastern District of Virginia (E.D. Va.) to further make him unemployable, and to bankrupt and destroy him. The government in hindsight can be viewed as weaponized against Mr. Speed by the charges of possessing unregistered silencers because he purchased solvent traps (meant and sold only to catch gun cleaning oil) that he never modified, but (with use of tools and machining knowledge he didn't have), might be transformed into silencers on some future, unspecified date.

First, a solvent trap or tube is merely a device that screws onto a firearm to catch gun oil and particulates from the cleaning process. Secondly, no commercial devices marketed as silencers fully "silence" a firearm. They may lower the decibel level. The NFA refers to 18 U.S.C. § 921 for the definition of a silencer - which is broad and open to interpretation, but what is lost under prosecution for the NFA is the intended use of the device as sold:

> The terms "firearm silencer" and "firearm muffler" mean any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in

> assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

18 U.S.C. § 921(a)(24).

Not one of the untold hundreds(?) of Hawk Innovative Tech (HIT) customers who also legally purchased the solvent traps on-line as did Mr. Speed (and didn't modify them) was prosecuted. The traps were sold as only being intended for use in firearm cleaning. Even at the time of Mr. Speed's E.D. Va. trial, the HIT website was still on-line for business (as noted by a juror, which led to court admonition). None of the HIT owners were criminally charged by the time of his second trial. Elsewhere, when it uncovered customer lists for another solvent trap company, the ATF sent warning notices to those customers advising them to turn in the solvent traps. But even though ATF supposedly raided HIT around April 2021 and obtained customer lists, the ATF never sent Mr. Speed a warning with guidance. Nor did the ATF advise the DOJ of the HIT customer list until near Speed's September 2022 arrest. The January 6 search warrant was written to seize his solvent traps, when all the ATF had to do was send him a letter saying he could not keep them. This appears to be the type of unjust prosecution that the January 6 Pardon was meant to rectify.

Silencers are not inherently dangerous but under 26 U.S.C. § 5845(a) they are categorized along with machine guns, explosives, artillery, short-barreled shotguns and rifles et al. as requiring registration and tax payment. App. J. The ATF has the broad discretion, that this Court could consider arbitrary, to determine which metal pipes and household items can be made into silencers. And national notice of what the law prohibits is not required, as happened in Mr. Speed's case. Behind the scenes, ATF wasn't operating a "shall issue regime," instead mass denying Form 1's.[2]

[2] See NRA "ATF Mass Denial of Suppressor Form 1 Applications" (March 7, 2022) https://www.nraila.org/articles/20220307/atf-mass-denial-of-suppressor-form-1-applications

The NFA statutes only allow the transferor or manufacturer to file the necessary Form 4 to register a silencer and pay the tax. App J. Mr. Speed was not a manufacturer or licensed firearms dealer and could not file any Form 4 to register his solvent trap purchases, had he known the ATF classified those as silencers. "Knowing" as scienter and a criminal mind associated with the requirement for "willful" action was disregarded for all practical purposes. The prosecution was based on Mr. Speed's knowing that maybe others converted the solvent traps and maybe it could be done with his items in the future. This was all based on the UCE drawing out such discussion by giving opinions about the government and the future. But the government convinced the court to exclude recorded evidence of Mr. Speed saying that the Form 1 that was required to manufacture a silencer would have to be filed to gain approval to turn a solvent trap into a silencer - or otherwise it would be a felony to proceed. That was Mr. Speed telling the UCE (who appeared trying to entrap Mr. Speed in conspiracy with the UCE to illegally manufacture a silencer) that he could not modify solvent traps without first gaining ATF approval. Mr. Speed was instead found guilty in strict liability for possession of items legally sold as solvent traps when according to the law (App. J) he as the purchaser never could have independently registered the items using the Form 4, and where he never started any modification without Form 1 approval that he knew was required - after following every single requirement to legally purchase and own expensive silencers.

The "Catch-22" situation is apparent where he was guilty of possession of a solvent trap that he could not register when at no time did he try to modify it to function as a silencer. And nothing about the One Big Beautiful Bill removing the tax changes anything in the NFA about failure to register, unless this Court addresses whether the law can stand regarding silencers when the tax is now $0.

This Court captured years ago what still holds for current 26 U.S.C. Sections 5812(b) and 5861(d), (App. J) and wrote, indicating that knowing something not sold as a silencer is actually an unregistered firearm, the elements of the crime must inherently show the possessor knew the item was a silencer:

> only possessors who lawfully make, manufacture, or import firearms can and must register them; *the transferee does not and cannot register*. It is, however, unlawful for any person "to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record."

United States v. Freed, 401 U.S. 601, 603-04, (1971)

Therein lies the rub. Only HIT as the transferor could register the solvent traps as silencers – which it legally sold only as solvent traps. Mr. Speed, without any notice that he was receiving any unregistered silencer, was held guilty just for possession without any "knowing" or "willful" scienter and no act to modify the solvent traps. App. A. The government (ATF and DOJ) without any published notice decided that only Mr. Speed, of all purchasers across the entire United States of solvent traps from HIT, was guilty of possessing an unregistered solvent trap that could maybe someday become a silencer if he obtained the tools and attempted to make modifications.

Bruen recognized that individuals have a Second Amendment right "to keep and bear arms for self-defense," that the Constitution presumptively protects conduct covered by that right, and that regulations of such conduct are unconstitutional unless "the government [] demonstrate[s] that the regulation is consistent with this Nation's historical tradition of firearm regulation." *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 142 S. Ct. 2111, 2126 (2022). Nothing in the National Firearms Act (NFA) clearly described that the purchase of solvent traps was illegal because they *possibly could* be manufactured into silencers in the future, making mere possession of legally purchased items in the present criminal because the transferor did not register them. There was no ability by Mr. Speed as purchaser to know of or meet the registration and tax requirements for

solvent traps he legally purchased. He was declared automatically guilty at the time of possession of a solvent trap that was not a silencer because the transferor who legally sold the item not as a silencer didn't register it as a silencer. This was government weaponization specifically against Mr. Speed. And this was precisely the weaponization and injustice that President Trump spoke about many times as reason for his Pardon Proclamation. App. I. And, on the same day, he issued Executive Order 14147, "Ending the Weaponization of the Federal Government."[3] January 6 was listed as weaponization.

The UCE talked about wanting to turn solvent traps into silencers. Mr. Speed only indicated what had to be done legally, and that recorded speech was excluded. Instead, Mr. Speed's free-speech expressions about Jewish people were used to prejudice the jury, while having no bearing on the imposition of strict liability for purchase of legal items (solvent traps) that could perhaps in the future be manufactured into silencers. His ideas, as distasteful, disagreeable, or objectionable as they may be, were never related to manufacture or possession of unregistered silencers – or January 6th. But in weaponization by the government, an invented narrative was allowable within DOJ and associated investigators to achieve the ends of incarceration and destruction of his life as they publicly called for all to hate him, in addition to the already ingrained allegations of "insurrection." And that is why the President's Pardon Proclamation applies to him.

Just the week prior to Mr. Speed's arrest, anti-MAGA and anti-Trump supporter sentiment was clearly extolled on September 1, 2022, when President Biden said in his Philadelphia speech to the Nation: "Donald Trump and the MAGA Republicans represent an extremism that threatens the very foundations of our republic." He followed up by calling MAGA "semi-fascist," a "threat

[3] The EO can be found at the Federal Register site: https://www.federalregister.gov/documents/2025/01/28/2025-01900/ending-the-weaponization-of-the-federal-government

to democracy" and included a call for stricter gun laws.[4] Notably, Senator Grassley's memorandum published around October 14, 2026, disclosed that ex-special counsel Jack Smith obtained personal information on 639,000 Republican donors, voters, aides, and supporters — including red MAGA hat, mug and T-shirt buyers. Smith's lists included names and addresses.[5] The stage was set for *enhanced* and increased government weaponization, to include that against Mr. Speed in a seeming Beta test for government weaponization at scale, known as January 6th prosecutions. Mr. Speed was made into a pariah by speech, including that edited and taken out of context.

Based on the standards set for Mr. Speed under the NFA, the possession of extra oil filters and other common household items (metal pipes, any cylinder, socks, a sack of potatoes, etc.) can now lead to government prosecution since those items could be "manufactured" into silencers regardless of whether the grocery or hardware store transferor registered the items. A person acknowledging the mere possibility of any item possibly functioning in the future as a silencer could be found guilty without ever manufacturing a silencer. Under the strict liability standard for possessing an unregistered and untaxed silencer, as was held for Mr. Speed, any targeted American would be guilty if they expressed the thought that an item *could become* a silencer. The ATF would just need to trot out any so-called expert for show and tell before a jury, with pictures about how she converted the item, using tools not possessed by the defendant. (Speed trial #2).

Of national importance is that nothing in the ATF policy change (App. F) prevents the NFA from being used for prosecution by any U.S. Attorney's Office or for withdrawal of the policy.

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[4] https://en.wikipedia.org/wiki/Battle_for_the_Soul_of_the_Nation_speech

[5] Reporting included: https://nypost.com/2026/10/14/us-news/jack-smith-kept-spreadsheet-on-639k-trump-backersincluding-red-maga-hat-buyers/ and https://www.grassley.senate.gov/news/news-releases/grassley-shares-explosive-arctic-frost-update-revealing-jack-smith-obtained-treasure-trove-of-data-for-over-half-a-million-republican-supporters (current as of October 25, 2026)

The constitutionality of the law without the tax must be addressed to determine whether innocent solvent trap and firearms purchasers can be prosecuted for not registering items that no longer have a legal hook based on taxation. Mr. Speed on direct appeal is still being prosecuted despite the tax no longer existing and lack of showing by the government of any criminal mens rea outside of that by the UCE. The government in the eastern District of Virginia declined to take the opportunity to discuss before the filing of this petition any action to end this prosecution given that the circuit court's mandate had transferred jurisdiction back to the trial court. Are all Americans supposed to be comfortable with the ATF policy that can change overnight? While the ATF Director says there will not be prosecution of the no-longer taxed items under the NFA, and those will not be required to be registered (App. F); and the DOJ declined to appeal the ruling in *Silencer Shop Found. v. BATFE*, No. 6:25-CV-056-H, 2026 LX 446909 (N.D. Tex. Aug. 5, 2026) (App G), here we still have prosecution. What other Court can enact a new rule and alleviate the large-scale confusion where instead retroactivity can overcome DOJ's reliance on the present Savings Clause status? This Court is best situated to quickly resolve a federal issue that impacts nationally. GVR can reach circuit court level, if remanded with the requirements that the circuit address

- why a silencer is not a firearm when the law says that it is
- would the court have decided differently had it known before May 2026 that the tax was no longer valid, despite the government not admitting that after having represented that it was
- what analysis under Bruen and Heller regarding traditional Second Amendment history would make Mr. Speed or anyone similarly situated not guilty without willful and knowing intent in the present to violate the law

II. After Encroachment, the Sentence Continues Despite the Pardon

Even though on January 20, 2025, President Trump issued a Presidential Pardon Proclamation and pardoned all who were convicted of offenses *related to* the events of January 6th, the DOJ never entered vacatur at the Fourth Circuit for Mr. Speed, or any filing for dismissal at the trial court as was done for all the direct appeal and non-final conviction cases in the D.C. Circuit. Guidance was sent to U.S. Attorneys on handling January 6th cases where firearms were found during raids. Mr. Speed's case is distinguished because there can be no doubt given the search warrant's specific instructions to find and seize the firearms contained in the Form 4473s that were turned over (with no known warrant) and the solvent traps, that the government ran this case as completely "related to" January 6th – in alignment with the Pardon's language. The government's focus in characterizing him as a domestic terrorist lasered in on what he owned under his Second Amendment rights. The U.S. Attorney General (AG) was identified as the Pardon execution authority. The Pardon Proclamation directed that the Attorney General:

> shall ensure that all individuals convicted of offenses related to events that occurred at or near the United States Capitol on January 6, 2021, who are currently held in prison are released immediately. The Bureau of Prisons shall immediately implement all instructions from the Department of Justice regarding this directive.
>
> I further direct the Attorney General to pursue dismissal with prejudice to the government of all pending indictments against individuals for their conduct related to the events at or near the United States Capitol on January 6, 2021. The Bureau of Prisons shall immediately implement all instructions from the Department of Justice regarding this directive.

Proclamation No. 10887, 90 Fed. Reg. 8331 (Jan. 29, 2025). App. I.

Why should Mr. Speed be discriminated against when in all similar cases the U.S. AG sent direction to apply the Pardon, and cease prosecution? See:

> M.D. Fla. - United States v. Ball, 24-cr-97
> W.D. Tex. - United States v. Guy Reffitt, 4:22cr289
> D. Md. - United States v. Sattler, 1:23-cr-00438

M.D. Fla. - United States v. Jeremy Brown, 21-cr-00348 ((Limited remand on appeal for Rule 48(a) dismissal under pardon))
D. Md. - United States v. Elias Costianes, Jr., 21-cr-00458 ((Limited remand on appeal for Rule 48(a) dismissal))
D.D.C. - United States v. Bertino, 22-cr-00329 (weapons charge transferred from Western District of North Carolina to D.C. and dismissed along with January 6 offenses.)
D.C. Circuit: second pardon issued for Dan Wilson

Here we have a collision of issues surrounding Mr. Speed's prosecution for NFA charges and the Pardon. On the night of January 20, 2025, Mr. Speed was called into a release waiting area of the BOP (Dix) facility after it received notice of the Pardon Proclamation and a list from the U.S. AG level or BOP of those prisoners who were to be released under the President's Pardon Proclamation. The authorities on duty at Mr. Speed's prison said they were waiting on orders.[6] In the very early morning hours of January 21, 2025, Mr. Speed was released as fully pardoned where his 36-month prison sentence for the judgment by this Court was not completed regardless of any time credits. He had started imprisonment upon the guilty verdict and had just served two years of his 36-month sentence for the NFA counts for possessing solvent traps that he was convicted of in the Fourth Circuit. It was impossible that his sentence for the D.D.C. 48-month consecutive sentence *to be served after* he completed the NFA conviction had begun.

[6] Although the warden receives a copy of the pardon or commutation, the release order cannot be completed until the Designation and Sentence Computation Center (DSCC), issues the Official Computation. The DSCC (located in Grand Prairie, Texas) is the sole authority within the BOP responsible for calculating and updating federal sentences. See DOJ website. The DSCC must calculate the exact date the clock stops, audit for any outstanding federal or state detaining warrants (detainers) and officially adjust the inmate's projected release files. After the DSCC updates the official calculation, the new release date or immediate release order is transmitted back to the Correctional Systems staff (Receiving and Discharge) at the inmate's local BOP facility. Local staff perform a final identity verification and physical release check. Note: this process was verified by undersigned with the BOP prison officials via phone calls on the night of January 20, 2025, and again on/about November 14, 2025, for release of January 6 defendant Dan Wilson. The warden may be provided the pardon paperwork or even just a list of names, but the release order can only be after review and calculation by the DSCC.

Unlike prisoners released at the end of a sentence when there is a subsequent supervised release period, (such as that listed in his judgment at App. C) because he was pardoned Mr. Speed received no paperwork. When there is a continuing sentence of supervised release, the BOP provides Form BP-A714.056, Notice of Release and Arrival - to the prisoner at the time of release to identify the Probation Services officer they must report to within 72 hours of release. The BOP's Designation and Sentence Computation Center (DSCC) must compute time and verify release before it occurs. The same as for other January 6 prisoners who were pardoned and released, the BOP provided no Form BP-A714.056 to Mr. Speed upon release on January 21, 2025. Nor has Probation Services ever since provided that form.

Yet, on or about January 25-27, 2025, Mr. Speed's trial attorney in the closed case contacted him with the message that he needed to contact a Probation Services officer because he had to begin supervised release. Probation Services works for the Judicial Branch. There was no filing made on the case docket after January 20, 2025, to support, oppose, show, or publish any legitimate order to reinstate Mr. Speed's sentence after he was released by the U.S. AG for the President, and by the subordinate Federal BOP and its DSCC under the President's Pardon. App. M docket excerpt. There was no communication by the U.S. AG, the BOP or its DSCC on behalf of the Executive Branch that the Pardon Proclamation had been improperly applied to Mr. Speed where he had a sentence remaining. There was no communication from anyone in the DOJ or BOP saying any authority was excusing the ~90 or more days he had remaining for his NFA conviction prison sentence, even if given the most expansive application of time credit possible under the First Step Act. The Judicial Branch encroached on USCS Const. Art. II, § 2, Cl 1 (App. H) without any process as required by USCS Const. Amend. 5. App H.

Only the sitting President who issued this Pardon or the U.S. AG who is specifically or traditionally designated as execution authority may execute or attempt to interpret the President's Pardon in this case. Any direction on the Pardon's application must come from the U.S. AG (and could then be through the E.D. Va. USAO) if the Court does not facially recognize that the U.S. AG as execution authority already spoke that he was pardoned when Mr. Speed was released from prison on January 21, 2025.

Mr. Speed is on direct appeal and vacatur should already have occurred. Since nobody previously brought the pardon issue before a court, it was not the Judiciary's responsibility to act sua sponte. Mr. Speed's attorney and the DOJ failed to present the pardon to the court. However, the Judicial action to continue supervised release without any due process was counter to standard judicial proceedings.

REASONS FOR GRANTING THE PETITION and GVR

Issue I: This Court can take the issue up directly or issue a GVR because of the extraordinary intervening development given change in the law during the pendency of Mr. Speed's direct appeal where the tax was removed on short-barreled shotguns, short-barreled rifles, silencers, and a group of miscellaneous firearms from the NFA. The Fourth Circuit never analyzed its position considering new law. Along with this, the government claimed total cessation of statutory enforcement but without a decision from this Court, the prosecutions are continuing, creating more confusion nationally despite the letter at App. F. There is a circuit split on whether a silencer is a firearm, and the Fourth Circuit analyzed the NFA only on "burden" with the government saying it is a "shall issue" regime (not quite true). This is compelling. Another important factor is that the DOJ in its Supplemental filing (App K) stated the tax was still valid, within six weeks of it becoming invalid. The DOJ had the duty of candor to advise the court prior to its May 2026 Opinion. The Opinion (App. A) relied on the tax.

This matter is of national significance with the compelling reason that the constitutionality of the changed NFA is a federal question, and there is widespread confusion about the legal ramifications of possession of items such as silencers (or solvent traps) without a registration that is still required in the NFA despite the tax having been eliminated. While the ATF indicated prosecution should not occur, that is not being followed. Besides this case, the DOJ is still prosecuting people under new 2026 indictments for alleged "possession" going back at least until 2024. *United States v. Schiller*, No. 26-cr-60158-BLOOM, 2026 LX 630829 (S.D. Fla. Oct. 23, 2026). Arguments over the Savings Clause and whether retroactivity can be applied rightfully belong in this Court. The government has announced a new rule, but no circuit court has done so. One might even posit that the DOJ's decision to not appeal the decision in *Silencer Shop Found.*

v. BATFE, No. 6:25-CV-056-H, 2026 LX 446909 (N.D. Tex. Aug. 5, 2026) (App G) to the Fifth Circuit is a way to shortstop any ”new rule” retroactivity consideration.

With no apparent enumerated power by Congress visible in the law (i.e. no commerce) a holding by this Court can relieve the burden on defendants, plaintiffs, and the courts as the ATF's published "rule" (App. F) is not consistent with the reality of ongoing prosecutions by the DOJ. The NFA is a tax law which has criminal penalties. "The Eleventh Circuit has upheld § 5861(d)'s constitutionality 'as an exercise of Congress' taxing power.' *Bolatete*, 977 F.3d at 1034 (citing *United States v. Spoerke*, 568 F.3d 1236, 1245-46 (11th Cir. 2009))." *United States v. Schiller*, No. 26-cr-60158-BLOOM, 2026 LX 630829, at *4 (S.D. Fla. Oct. 23, 2026). Now there is no more tax as an anchor to let the law continue being considered constitutional. Congress has no general welfare power to require registration of firearms. The law has no constitutional basis without the tax. See *Sonzinsky v. United States*, 300 U.S. 506 (1937)

Further, there is a circuit conflict as to whether silencers are even protected under the Second Amendment. The Fourth Circuit deviated from the *Heller* and *Bruen* standard in never addressing step 2 and instead declaring that the registration and tax fell under a "shall issue" licensing process, which technically was misrepresented by the government for silencers given that the ATF refused to issue Form 1 approval to modify solvent traps and denied almost half the submissions for any private manufacturer. Notably, the *Bruen* Court identified that such "shall issue" regimes are open to abuse. See *Bruen*, 142 S. Ct. 2138 n.9.

This case presents the compelling issue requiring review where the status of the NFA and enforcement for silencers is unclear across the nation. The law was found unconstitutional in the N.D. Tx. (App. G) because there is no longer a tax to support registration, and there is no commerce clause as the enumerated power for silencers and other firearms that require registration. But the

Texas federal district court's holding only enjoined enforcement against citizens in that district, Silencer Shop sales, and members of the Gun Owners of America (GOA). The DOJ hasn't asked but Mr. Speed is a member of GOA. Does that mean the injunction applies, and the case against him should be dismissed with charges vacated? As importantly, outside the Northern District of Texas nothing precludes any U.S. Attorney's Office from continuing prosecution against anyone, as is the case here.

The Court has authority under Article III to grant this petition, vacate the judgment of the Fourth Circuit, and remand this case for further consideration under *Lawrence v. Chater*, 516 U.S. 163 (1996). Without being advised prior to its opinion on May 5, 2026, the Fourth Circuit did not have opportunity to review an unprecedented structural shift. The DOJ and the ATF have formally announced they will no longer criminally prosecute individuals for possessing an unregistered silencer under the NFA. App. F. This enforcement collapse stems directly from Congress's passage of the *One Big Beautiful Bill Act*, Pub. L. No. 119-21, 139 Stat. 72, which reduced all NFA manufacturing and transfer taxes for these items to $0. effective January 1, 2026. Consequently, the criminal statute used to deprive Mr. Speed of his liberty has been stripped of its sole constitutional foundation, rendering his ongoing 3-year continued confinement under supervised release an unconstitutional exercise of federal power and injustice. In addition to continued loss of liberty, he remains a convicted felon where the law changed to remove the tax prior to the Fourth Circuit upholding the conviction, and where the Fourth Circuit likewise did not overturn its precedent that silencers are not firearms and are accessories not protected under the Second Amendment.

The circuit split is not diminishing. In *United States v. Comeaux*, decided on June 18, 2026, the Fifth Circuit ruled that silencers are protected "arms" because they facilitate armed self-defense

by reducing noise, lowering recoil, and preventing hearing loss. This ruling directly contrasts with the U.S. Court of Appeals for the Ninth Circuit which held that silencers are not "arms" under the plain text of the Second Amendment and are merely accessories. *United States v. DeBorba,* 177 F.4th 1005, 1008 (9th Cir. 2026). The same conflict arose in the Tenth Circuit which held: "A silencer is a firearm accessory; it's not a weapon in itself (nor is it 'armour of defence'). Accordingly, it can't be a 'bearable arm' protected by the Second Amendment." *United States v. Cox*, 906 F.3d 1170, 1186 (10th Cir. 2018). This Court's statement in *Bruen* that a "shall issue regime" for example under the NFA is constitutional, albeit subject to abuses, is now used to ignore the text of the law (silencers = firearms) and bypass the required two-step process to assess constitutionality under the Second Amendment. Did the Court mean to imply that step two involving history and tradition can be ignored if there is a claim of a "shall issue" regime? That conflict requires clarification especially given that Mr. Speed is still confined when he never knew he was violating a law, and the ATF would not have issued a permit for him given a Form 1 submission. The Fourth Circuit did not address its standard other than reference to saying it has no published opinion, despite the precedent of *United States v. Saleem*, No. 23-4693, 2024 WL 5084523, at *2 (4th Cir. Dec. 12, 2024) ("While a silencer may be a firearm accessory, it is not a 'bearable arm' that is capable of casting a bullet. Moreover, while silencers may serve a safety purpose to dampen sounds and protect the hearing of a firearm user or nearby bystanders, it fails to serve a core purpose in the arm's function.").

This Court should clarify the issue. The present situation with removal of the tax with the ATF saying there won't be prosecutions while the DOJ is prosecuting is untenable. Even though it seems obvious that to be convicted for a law about the possession of an unregistered firearm, where silencers are listed as firearms, courts such as the Fourth Circuit are not applying the two-

step process that includes analysis of history and traditions. As in Mr. Speed's case, the court moved directly to allowing for infringement if there is a claim that the process allows "shall issue" for a license to carry or possess. No data was presented to the court to show the "shall issue" claim to be real in practice.

The Court should consider stare decisis from past consideration of tax and constitutionality. Under *NFIB v. Sebelius*, a $0 tax eliminates the NFA's sole constitutional anchor. Instead, the Fourth Circuit's ruling rested entirely on the historic presumption that the NFA is a valid exercise of Congress's Taxing Power under Article I, Section 8, Clause 1 (*Sonzinsky v. United States*). However, this Court's controlling precedent explicitly dictates that a tax must function as a tax to remain constitutionally viable. In *NFIB v. Sebelius*, 567 U.S. 519 (2012), this Court held that "the essential feature of any tax" is that it "produces at least some revenue for the Government." When Congress zeroed out the NFA tax base, the statutory framework ceased generating any revenue. Under the *NFIB* standard, an NFA registration requirement tied to a $0 tax is no longer an administrative aid to tax collection. It transforms into a freestanding, direct regulatory command to register property—a power nowhere enumerated in the Constitution.

Mr. Speed is distinguished from petitioners or plaintiffs in other cases. He possesses the Article III Standing that was absent in *California v. Texas*. The government previously maintained in its December 2025 supplemental brief that the tax structure remained legally sound. To the extent the government seeks to evade judicial review by relying on *California v. Texas*, 593 U.S. 659 (2021), that reliance is fatally flawed here. In that case, this Court dismissed a challenge to a $0 health insurance mandate because a $0 penalty was completely unenforceable with no criminal consequences, thus inflicting no Article III injury-in-fact (593 U.S. 659). For Mr. Speed, the government did not treat this NFA provision as an unenforceable command—they indicted,

prosecuted for a conviction, and he received 36 months in federal prison for failing to pay a tax that Congress has abolished. Mr. Speed's standing is locked by a concrete, ongoing deprivation of physical liberty given his ongoing supervised release.

The Executive Branch's formal non-prosecution policy demands a lower court reset. The DOJ and ATF's sudden, post-May 2026 announcement that they will no longer prosecute unregistered silencer offenses represents a total confession of error regarding the statutory framework. The executive branch should not actively continue confinement of Mr. Speed under an NFA registration enforcement theory that it has simultaneously abandoned nationwide as legally unsustainable. Continuation of the sentence creates a severe inequity.

Because the Fourth Circuit did not have the opportunity on direct appeal to evaluate Mr. Speed's conviction against a $0 tax landscape coupled with an explicit federal non-prosecution policy, a Grant, Vacate, and Remand (GVR) order is uniquely appropriate to allow the lower court to review the merits of this structural collapse.

Issue II.

There is a rich history surrounding Presidential Pardons. For the Pardon Proclamation, President Trump issued it to rectify injustices that occurred across cases, and to lead to healing. The Court should either directly vacate the conviction and remand for dismissal or return the matter to the Fourth Circuit with instructions under GVR.

The Founders saw a pardon as an act of grace that served the public interest. *United States v. Sanders*, 133 F.4th 341, 394 (5th Cir. 2025). See also *Biddle v. Perovich,* 274 U.S. 480, 486 (1927). President Trump stated his intent in the Presidential Pardon issued on January 20, 2025, where he pardoned all but 14 individuals convicted of offenses "related to events that occurred at or near the United States Capitol" on January 6, 2021. The phrase "related to" must be given its

ordinary, broad meaning under principles of pardon construction. Mr. Speed's firearms conviction is directly and inextricably related to the January 6th events.

Federal agents listed firearms as items to be seized during the raid on Mr. Speed in June 2022. They had investigated him under January 6 authorities and resources and then seized the firearms only because they were executing a search warrant for the January 6th investigation. But for Mr. Speed's presence at the Capitol, the firearms would never have been charged, or any crime prosecuted. In numerous speeches, President Trump consistently said in speeches that he saw the Pardon being for reconciliation and as rectifying injustices, such as the invasive, unnecessary FBI raids, lengthy and unnecessary pretrial incarcerations with no family visits, unsanitary jail conditions, and inedible food to name a few. The Pardon is classified as an Executive Action and directed the U.S. AG and BOP to act, where its central theme and intent is to provide grace and to support the public interest of reconciliation.

The Constitution grants the President sweeping authority "The President . . shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment." U.S. Const. art. II, § 2, cl. 1. The Supreme Court has consistently held that the pardon power is "plenary" and virtually unlimited: "The power thus conferred is unlimited, with the exception stated. It extends to every offence known to the law and may be exercised at any time after its commission, either before legal proceedings are taken, or during their pendency, or after conviction and judgment." *Ex parte Garland*, 71 U.S. (4 Wall.) 333, 380 (1866). A pardon "releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offence." *Id*. at 380-81.

Where, as here, the Pardon has been properly bestowed and acted upon under the President's exclusive authority, it is not "subject to further judicial examination," *Trump v. United*

States, 603 U.S. 593, 608 (2024). Just as *Ex parte Garland*, 71 U.S. 333, 380 (1867) found that the pardon power "of the President is not subject to legislative control" the same applies to judicial control. It is traditional that the U.S. AG executes a pardon for the President. "Ordinarily, the President relies on the Department of Justice—specifically, the Attorney General and Office of the Pardon Attorney—to administer the pardon process." *Andrews v. Warden*, 958 F.3d 1072, 1078 (11th Cir. 2020).

This case raises an issue of compelling national importance because under a sitting U.S. President, the Judicial Branch inserted itself into interpreting the pardon and deciding whether it applies – thus encroaching on the Executive and clear constitutional authority of the President. Judges have decided that the Pardon did not apply, despite that President Trump was in the White House after signing the instrument by hand – and after his AG conveyed execution authority to U.S. Attorney Offices for AUSAs to enter in filings and court proceedings in specific cases – conveying that the Pardon did apply.

The encroachment into the Executive Branch by the Judicial Branch on the application of a sitting President's Pardon is a compelling issue for this Court to address. It is of national importance as it violates what we know as the "Separation of Powers." Here, some entity within the Judiciary usurped the Executive after it had released Mr. Speed under the Pardon. With no due process the action was a departure from the usual course of judicial proceedings. On the matter of President Trump's Article II § 2 pardon authority, the Constitution is clear: he may issue a pardon if it is not for someone who has been impeached. App. H.

The entry of the Judicial Branch into the Executive function has not gone unnoticed in America, and this tension requires relief that can only come from guidance by this Court. Every

Executive Order seemingly gets attacked by lawsuit, often followed by a federal judge entering an injunction (sometimes national), and then the appellate process becomes engaged.

Normally such matters of what is assigned to a branch involve legislation and judicial review of laws. "In *United States v. Klein*, 13 Wall. 128 (1872), an Act of Congress was struck for encroaching upon judicial power, but the Court found that the Act also impinged upon the Executive's exclusive pardon power. Art. II, § 2." *Ins v. Chadha*, 462 U.S. 919, 999 (1983). *Chadha* at 1000 supports examining disruption and impairment by one branch against another to determine overreach. The Constitution is organized so that one branch of the Government "may not intrude upon the central prerogatives of another." *Loving v. United States*, 517 U.S. 748, 757 (1996).

In prior pardon cases, of which there are not many involving a Presidential pardon, there is usually controversy over legislation (such as post-Civil War laws), some treaty, or a prisoner arguing against what he already accepted for commutation. Here, the guardrails of Separation of Powers disappeared despite the Founders having "built into the tripartite Federal Government . . . a self-executing safeguard against the encroachment or aggrandizement of one branch at the expense of the other." *Mistretta v. United States*, 488 U.S. 361, 381-82 (1989) (quoting *Buckley v. Valeo*, 424 U.S., at 122).

Because the U.S. AG already spoke for the President, by designating Mr. Speed to the BOP as pardoned and by placing him on the list of persons to be released under the Pardon Proclamation on January 20, 2025, the Court should grant this Motion, where the charges and indictment must be dismissed as specified in the Pardon's language.

Neither party raised the Pardon as an issue. But, that failure by either party to raise the Pardon on appeal should be excused against Mr. Speed by cause and prejudice. He accepted the

pardon when he walked out of prison in the early morning hours of January 21, 2025. He never asked his attorney to argue Second Amendment merits and not coordinate with DOJ to effectuate the pardon. The Pardon intervened during a period when his appeal went through an extended stay awaiting the outcome of another case. Mr. Speed was never given any process regarding being placed on supervised release.

The Pardon was an intervening Executive act whose legal effect this court should recognize. Any omission by former counsel or the government does not bar this Court from giving effect to the valid Presidential Pardon. Under *Bousley v. United States*, 523 U.S. 614 (1998), procedural default is entirely excused if the defendant can show they are factually or legally innocent of the continuing punishment—which a full pardon legally guarantees. See *United States v. Frady*, 456 U.S. 152 (1982). The open indictments should be dismissed for Mr. Speed.

Mr. Speed's case raised compelling issues that are of national importance, with a law that appears unconstitutional without the tax provision, a circuit split on whether a silencer is a firearm, with the follow-on that the two step analysis for the Second Amendment is not being followed, a Judicial encroachment on the Executive with the President's Pardon not being applied to Mr. Speed where his due process right was ignored. Because of the above, the Court should grant this Petition and order a GVR where overturning the convictions based on the pardon can be done by this Court.

CONCLUSION

Wherefore, Mr. Speed prays that because of intervening events where the important issues here were not first considered at the Fourth Circuit, the Court will grant Certiorari, Vacate the decision below, and Remand to the Fourth Circuit. Given the facts surrounding the President's Pardon, and if given the Solicitor General's agreement on behalf of the U.S. Attorney General as the execution authority for the Pardon, the Court should for judicial efficiency exercise its ability to vacate Mr. Speed's conviction and sentence, and remand for dismissal on mootness.

October 30, 2026

Respectfully submitted,

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