No. _____

IN THE

Supreme Court of the United States

BURNEAL ELLIOTT,
Petitioner,
v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Whether a firearm capable of automatic fire is an "Arm[]" within the meaning of the Second Amendment's text.

PARTIES TO THE PROCEEDING AND RULE 29.6 STATEMENT

The petitioner herein, who was the defendant-appellant below, is Burneal Elliott. The respondent herein, which was the appellee below, is the United States. Neither party is a corporation.

Related Proceedings

The following proceedings are directly related to this case:

- *United States v. Burneal Elliott*, No. 21-cr-88, U.S. District Court for the Eastern District of Louisiana. Judgment entered December 9, 2024.
- *United States v. Burneal Elliott*, No. 24-30772, U.S. Court of Appeals for the Fifth Circuit. Judgment entered August 11, 2026.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Burneal Elliott respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit. Alternatively, Mr. Elliott asks this Court to hold his petition pending its decision in *Viramontes v. Cook County*, No. 25-238, and *Grant v. Higgins*, No. 25-566.

JUDGMENT AT ISSUE

On August 11, 2026, a panel of the Fifth Circuit Court of Appeals reversed one of Mr. Elliott's convictions but affirmed his remaining convictions and sentences. A copy of the judgment and decision are attached to this petition as the Appendix.

JURISDICTION

The Fifth Circuit entered its decision on August 11, 2026, and no petition for rehearing was filed. This Court has jurisdiction under 28 U.S.C. § 1254(1). This petition for a writ of certiorari is timely filed pursuant to Supreme Court Rules 13 and 30 because it is being filed within 90 days of the Fifth Circuit's final judgment.

STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED

The Second Amendment to the United States Constitution 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.

18 U.S.C. § 922(o)(1) provides, in relevant part:

> [I]t shall be unlawful for any person to transfer or possess a machinegun.

INTRODUCTION

Petitioner Burneal Elliott raises a similar question that is currently before this Court in *Viramontes v. Cook County*, No. 25-238 (cert. granted Jun. 30, 2026), and *Grant v. Higgins*, No. 25-566 (cert. granted Jun. 30, 2026). The question presented in those cases is whether the Second and Fourteenth Amendments guarantee the right to possess AR-15 platform and similar semiautomatic rifles. Resolving that question requires answering the threshold questions of how courts should determine if a firearm is an "arm" within the meaning of the Second Amendment and whether it should do so at *Bruen* step one or *Bruen* step two. The answer to those analytical questions has immediate and broader import for assessing the constitutionality of categorical bans on different types or classes of firearms beyond those bans that specifically target AR-15s.

Mr. Elliott was convicted of violating 18 U.S.C. § 922(o)(1), which makes it unlawful for anyone to transfer or possess a machinegun (as statutorily defined), based on his mere possession of a handgun affixed with a machinegun conversion device. Fifth Circuit precedent holds that the Second Amendment does not extend, prima facie, to machineguns. That approach cannot be squared with this Court's Second Amendment decisions. This Court has repeatedly affirmed that "all firearms constitute[] arms." *District of Columbia v. Heller*, 554 U.S. 570, 581 (2008) (internal quotation marks omitted). As this Court reiterated last term, "Arms" under the Second Amendment include "implements used for offense or defense." *Wolford v. Lopez*, 609 U.S. 185, 205 (2026) (internal quotation marks omitted). And the

government has now agreed before this Court that an approach "under which some firearms are not arms" covered by the Second Amendment's text "defies both the plain meaning of 'arms' and *Heller*'s interpretation of that term." U.S. Amicus Br. 8, *Viramontes v. Cook Cnty.* (No. 25-238) (Sept. 4, 2026).

Yet the courts of appeals are divided over whether a weapon's dangerousness or prevalence bears on whether it is an "Arm[]" covered by the text of the Second Amendment. The answer to that question is important: When the Second Amendment's "plain text" covers a challenged law, the law is presumptively unconstitutional, and the government bears the burden to demonstrate that the law is "consistent with this Nation's historical tradition of firearm regulation." *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 17 (2022). The Court should grant plenary review to decide this recurring question of law.

Alternatively, the Court should hold this petition pending resolution of *Viramontes v. Cook County*, No. 25-238, and *Grant v. Higgins*, No. 25-566 (consolidated and set for argument on December 2, 2026), which present the question whether the Second Amendment protects AR-15 platform and similar semiautomatic rifles. The Court appears to be holding several petitions that present the question whether Section 922(o) is constitutional, and it should follow the same course here. If the Court grants relief in *Viramontes* or *Grant*—or even clarifies the nature of the Second Amendment inquiry—it should grant the petition, vacate the decision below, and remand so that the court of appeals can consider that guidance in the first instance.

STATEMENT OF THE CASE

A. Factual and Legal Background.

Section 922 sets forth various unlawful acts related to firearms. Congress enacted § 922 in the Gun Control Act of 1968. Pub. L. 90-351, Title IV, § 902, 82 Stat. 228 (1968). In 1986, Congress added subsection (o). Firearms Owners' Protection Act of 1986, Pub. L. No. 99-308, § 102, 100 Stat. 449, 453 (1986). That provision prohibits the transfer and possession of "machineguns." 18 U.S.C. § 922(o)(1). There is an exception for government agencies. § 922(o)(2)(A). There is also an exception for "any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect," i.e., prior to the law's enactment in 1986. § 922(o)(2)(B). In other words, transfer and possession of machineguns that pre-date Congress's 1986 ban is still lawful.

Federal law defines "machinegun" broadly to mean "any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger," as well as "the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person." 26 U.S.C. § 5845(b). To illustrate this point: The "machinegun" at issue in this as-applied challenge was actually a Glock pistol that can be converted to a machinegun via a machinegun conversion device (i.e., a "Glock switch").

Notably, machineguns were not banned *at all* until 1986. *See Hollis v. Lynch*, 827 F.3d 436, 440 (5th Cir. 2016) (explaining that the "prohibition arose in 1986" when Congress passed § 922(o)). Prior to 1986, machineguns could be lawfully possessed so long as they were registered. *See* 26 U.S.C. § 5801 et seq.; *Hollis*, 827 F.3d at 440. Nor are machineguns fully banned today. To the contrary, it is in fact lawful to possess a machinegun that was lawfully possessed prior to 1986. *See* § 922(o)(1), (2)(B); *Hollis*, 827 F.3d at 440. Most state laws are in accord, with only a minority entirely banning machineguns. *Hollis*, 827 F.3d at 450 (surveying state laws). *Cf. Caetano v. Massachusetts*, 577 U.S. 411, 420 (2016) (Alito, J., concurring) (explaining that "stun guns" are not "unusual" when people "may lawfully possess them in 45 States").

Further, there were at least 740,000 registered machineguns in the United States in 2021. Bureau of Alcohol, Tobacco, and Firearms (ATF), *Firearms Commerce in the United States: Annual Statistical Update 2021*, at 16. By 2024, that number had increased to almost 783,000. *Annual Statistical Update 2024,* at 12. And that number, because it includes only *registered* weapons, is an undercount of the total number of machineguns actually possessed (whether registered or not). *Cf. Caetano*, 577 U.S. at 420 (Alito, J., concurring) (explaining that "stun guns" are not "unusual" based on "approximately 200,000").

B. Proceedings Below.

In October 2022, Petitioner Burneal Elliott was arrested by local law enforcement based on suspicion that he was engaging in narcotics transactions. Upon searching his car, officers located a Glock pistol in the front driver's seat. Attached to

the firearm was a so-called "Glock switch"—a small device that can be attached to the rear of the slide of a handgun, changing a semi-automatic pistol into a selective fire machine pistol capable of fully automatic fire. Federal prosecutors ultimately adopted the case and charged Mr. Elliott in a four-count indictment that included narcotics and firearm charges. Count 2 of that indictment charged Mr. Elliott with possession of a machine gun, in violation of 18 U.S.C. § 922(o). On April 11, 2023, Mr. Elliott pleaded guilty to all four counts.

Following his plea, Mr. Elliott's attorney moved to withdraw, and new counsel enrolled. Mr. Elliott's new counsel requested a continuance to review the case, which the district court granted. Following that review, counsel filed a motion to dismiss Counts 1 and 2—the § 922(g)(1) felon-in-possession count and the § 922(o) machine gun count—on constitutional grounds. The fifteen-page memorandum in support was detailed and cited extensively to supporting legal authority. Counsel acknowledged that the motion was filed post-plea but urged that Mr. Elliott's convictions as to those two counts were unconstitutional under rapidly developing Second Amendment caselaw that followed this Court's decision in *Bruen*. Counsel noted her "obligation to raise all defects in the proceedings," including constitutional infirmities.

With respect to Count 2 (the machine gun charge), counsel asserted Second Amendment claims, arguing that *Bruen* abrogated prior Fifth Circuit caselaw previously holding that machine guns are not entitled to Second Amendment protection, citing *Hollis*, 827 F.3d at 451. Though the government opposed the motion, the government did not argue that the constitutional defects identified by the defense

were improperly raised, nor did the government urge the district court to disregard those claims as untimely. Instead, the government responded to each claim on the merits. The district court issued an Order and Reasons denying Mr. Elliott's motion to dismiss. At the start of that order, the court labeled Mr. Elliott's motion untimely under Rule 12(b). However, the district court went on to specifically address the merits of each issue raised in full. The court ultimately sentenced Mr. Elliott to 15 years, including a ten-year sentence as to the § 922(o) count.

Mr. Elliott appealed, arguing, in part, that § 922(o) violates the Second Amendment—both on is face and as applied to his case—under this Court's decision in *Bruen*, and its progeny. Mr. Elliott acknowledged that pre-*Bruen* circuit precedent purported to foreclose his argument, namely, *Hollis v. Lynch*, 827 F.3d at 451, in which the Fifth Circuit rejected the argument that the federal prohibition on unlawful possession of machineguns violates the Second Amendment and held that machineguns fall outside of the Second Amendment's protection. The Fifth Circuit, citing *Hollis*, affirmed.[1]

REASONS FOR GRANTING THE PETITION

The Fifth Circuit below rejected Mr. Elliott's facial and as applied Second Amendment challenges to 18 U.S.C. § 922(o) based on precedent holding that a firearm capable of automatic fire is not an "Arm[]" because it is dangerous and unusual. *See Hollis*, 827 F.3d at 446. That conflicts with this Court's decisions, and it

[1] The Fifth Circuit reversed one of Mr. Elliott's convictions as unconstitutional under the Second Amendment, namely, his conviction under 18 U.S.C. § 922(g)(1) for being a felon in possession of a firearm.

deepens an acknowledged division among the courts of appeals. The Court should grant plenary review to make clear that considerations of a weapon's dangerousness and prevalence have no bearing on whether the firearm is covered by the Second Amendment. Alternatively, because the Court's resolution of *Viramontes v. Cook County*, No. 25-238, and *Grant v. Higgins*, No. 25-566, will shed substantial light on the question presented here, the Court should hold this petition and dispose of it in light of those decisions.

A. The Decision Below Conflicts with this Court's Precedents.

The Fifth Circuit long has erred in holding that a firearm capable of firing automatically is not an "Arm[]" within the meaning of the Second Amendment. The Second Amendment guarantees that "the right of the people to keep and bear Arms[] shall not be infringed." U.S. Const. Amend. II. To decide whether a challenged law is consistent with the Second Amendment, a court must engage in a two-step analysis. *See Bruen*, 597 U.S. at 17. The court must first determine whether the challenged law is covered by the "plain text" of the Second Amendment, which "entails three subsidiary questions": (1) Does the law apply to "the people"?; (2) does the law "concern any form of 'Arms,' *i.e.*, any weapon customarily used for offensive or defensive purposes?"; and (3) does the law restrict either the "keep[ing]" or "bear[ing]" of arms? *Wolford*, 609 U.S. at 195 (alterations in original). If a challenged law falls within the plain text of the Second Amendment, the restriction is "presumptively unconstitutional," *id.* at 196, and the government bears the burden to "demonstrate that [its] regulation is consistent with this Nation's historical tradition of firearm regulation," *Bruen*, 597 U.S. at 17.

1. The plain text of the Second Amendment covers the conduct prohibited by § 922(o). Section 922(o) bans machinegun possession unless the machinegun was lawfully possessed prior to the enactment of the statute. *See* 18 U.S.C. § 922(o). The ban extends to "any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger." 26 U.S.C. § 5845(b); *see* 18 U.S.C. § 921(a)(24). The term "machinegun" is also defined to "include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person." 26 U.S.C. § 5845(b).

Machineguns are "Arms" covered by the Second Amendment. "Arms" are "implements used for offense or defense." *Wolford*, 609 U.S. at 192. Put simply, "all firearms constitute[] arms." *Heller*, 554 U.S. at 581 (internal quotation marks omitted). That includes machineguns. "[R]epeating arms have existed since the fifteenth century," and "numerous different repeating arms existed at the American Founding." *United States v. Wilson*, 174 F.4th 474, 479-480 (5th Cir. 2026) (Oldham, J., dissenting from the denial of rehearing en banc). Moreover, the Second Amendment's protection applies regardless of whether the particular weapon was "in existence in the 18th century." *Id.* at 582. "[E]ven though the Second Amendment's definition of 'arms' is fixed according to its historical understanding," this Court has explained, "that general definition covers modern instruments that facilitate armed

self-defense." *Bruen*, 597 U.S. at 28. At the very least, Mr. Elliott's firearm—a handgun equipped with a conversion device—is an "Arm[]" covered by the Second Amendment.

The Fifth Circuit, however, has held categorically that machineguns fall outside the Second Amendment's purview because they are dangerous and unusual. *See Hollis*, 827 F.3d at 440. The court thus rejected Mr. Elliott's challenge in this case, despite the fact that the government has not carried its historical burden to justify this firearm prohibition.

That analysis is flawed. The Fifth Circuit's approach confuses the *Bruen* framework, as the question whether the firearm is dangerous or unusual is "out of place at *Bruen*'s first step." *Wolford*, 609 U.S. at 205. At that initial stage, "the question is simply whether a challenged law falls within the Second Amendment's 'plain text.'" *Ibid.* The "dangerous and unusual" question comes at the second step of the *Bruen* inquiry, which places the burden on the government to "justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation." *Bruen*, 597 U.S. at 24. By moving that question to the first step, the court of appeals' approach "place[s] the burden of producing historical evidence on the wrong party." *Snope v. Brown*, 145 S. Ct. 1534, 1537 (2025) (Thomas, J., dissenting from the denial of certiorari); *see also Wolford,* 609 U.S. at 214 n.1 (Barrett, J., concurring) (explaining that courts cannot "smuggle additional limits, drawn from our regulatory tradition, into the plain-text stage of the inquiry"); *Caetano*, 577 U.S. at 418 (Alito, J., concurring) (explaining that the dangerousness

test "cannot be used to identify arms that fall outside the Second Amendment"). That is no small matter, because "[i]n some cases, the burden makes all the difference." *United States v. Price*, 111 F.4th 392, 415 (4th Cir. 2024) (en banc) (Quattlebaum, J., concurring in judgment).

The government agrees that a weapon's dangerousness and prevalence are not part of the plain-text inquiry. As amicus in *Viramontes* and *Grant*, the government has explained that a theory "under which some firearms are not arms" covered by the Second Amendment's text "defies both the plain meaning of 'arms' and *Heller*'s interpretation of that term." U.S. Amicus Br. 8, *Viramontes, supra* (No. 25-238) (Sept. 4, 2026). And "[s]muggling" historical regulations into *Bruen*'s first step "wrongly relieves the government of its burden of proving that the challenged law is consistent with our regulatory tradition." *Id.* at 8-9. That is precisely Fifth Circuit precedent has done: It treats the purported dangerousness of machineguns as a reason to exclude them from the Second Amendment's text, and it therefore never required the government to make its historical showing.

2. Because machineguns are arms, a law banning their possession is valid only if the government can show that it comports with "the principles that underpin our regulatory tradition." *Wolford*, 609 U.S. at 198 (citation omitted). Here, the government cannot carry its burden to demonstrate that Section 922(o) is consistent with that tradition. *See Bruen*, 597 U.S. at 17. While the government need not point to a "historical twin," *United States v. Rahimi*, 602 U.S. 680, 692 (2024) (internal quotation marks omitted), it must "show[] that its contemporary regulation is

'relevantly similar' to ones 'well-established' in the Nation's history," *United States v. Hemani*, 608 U.S. 772, 780 (2026) (quoting *Bruen*, 597 U.S. at 28-30). That is, the "how" and "why" of the historical analogue and modern law must be "close enough" to enable a court to "infer" that "the restriction imposed by the modern law is likewise consistent" with the Second Amendment right. *Wolford*, 609 U.S. at 197.

The government cannot make that showing here. This country's history of regulating weapons like those prohibited by Section 922(o) is limited and recent. Congress first addressed machineguns as part of the National Firearms Act of 1934, ch. 757, 48 Stat. 1236, but only by requiring their registration and taxing their transfer, §§ 3-6, 48 Stat. 1237-1238. Federal law did not prohibit the transfer or possession of machineguns until 1986. *See* Firearms Owners' Protection Act, Pub. L. No. 99-308, § 102(9), 100 Stat. 449, 452-453 (enacting 18 U.S.C. § 922(o)). Even then, Congress exempted every machinegun lawfully possessed before the statute's effective date, 18 U.S.C. § 922(o)(2)(B), so that a substantial number of such weapons remain lawfully held by citizens today. Congress's twentieth-century machinegun ban, standing alone, cannot "provide insight into the meaning of the Second Amendment when it contradicts earlier evidence." *Bruen*, 597 U.S. at 66 n.28.

Nor are machineguns "dangerous and unusual" for Second Amendment purposes. All firearms are dangerous; that is what makes them useful for self-defense. *See Friedman v. City of Highland Park,* 784 F.3d 406, 409 (7th Cir. 2015). This Court has long recognized that the Nation's historical tradition protects firearms that are in "common use." *Heller*, 554 U.S. at 627 (quoting *United States v. Miller*,

307 U.S. 174, 179 (1939)). Accordingly, the fact that a weapon poses a danger cannot justify a categorical prohibition—the weapon must also be *unusual*. *See Bruen*, 597 U.S. at 47; *Caetano*, 577 U.S. at 418 (Alito, J., concurring). Machineguns are not unusual: Federal law continues to permit private citizens to acquire and own machineguns lawfully possessed before May 19, 1986 (provided they comply with transfer requirements). 18 U.S.C. § 922(o)(2)(B).

A firearm that citizens have been permitted to lawfully own, and do own in such substantial numbers, is in common use. In all events, whether machineguns are "dangerous and unusual" is a question for *Bruen*'s second step, to be answered based on the government's historical showing—a showing the court of appeals never required.

B. This Court Should Grant Plenary Review to Address an Important Question that Has Divided the Courts of Appeals.

1. The courts of appeals are divided over which weapons the Second Amendment protects. They are in open conflict on "essential questions such as what makes a weapon 'bearable,' 'dangerous,' or 'unusual.'" *Harrel v. Raoul*, 144 S. Ct. 2491, 2492 (2024) (statement of Thomas, J.). And they disagree about whether those questions matter at *Bruen*'s first step, where the challenger must show that the weapon is an "Arm[]," or at the second, where the government must justify its regulation.

The Sixth Circuit has recognized that "all firearms constitute[] 'arms,'" without regard to whether the firearm was in common use. *United States v. Bridges*, 150 F.4th 517, 524 (6th Cir. 2025) (quoting *Heller*, 554 U.S. at 581-582). Thus, the Sixth Circuit

holds that "a machinegun—such as a handgun modified for fully automatic fire—is undoubtedly an 'Arm[]'" under the Second Amendment's text. The Third Circuit has also treated the common-use inquiry as part of *Bruen*'s second step, rather than its first. *See Ass'n of N.J. Rifle & Pistol Clubs, Inc. v. Attorney General*, 183 F.4th 211, 237-238 (3d Cir. 2026) (en banc). And the Second Circuit has assumed without deciding that assault weapons are covered by the Second Amendment's plain text. *See Nat'l Ass'n for Gun Rts. v. Lamont*, 153 F.4th 213, 235 (2d Cir. 2025).

By contrast, the Fourth and Tenth Circuits have held that only firearms "in common use" today for a lawful purpose qualify as arms under the Second Amendment's plain text. *See Bianchi v. Brown*, 111 F.4th 438, 441 (4th Cir. 2024) (en banc) (holding "[t]he assault weapons at issue f[e]ll outside the ambit of protection offered by the Second Amendment"), *cert. denied sub nom. Snope v. Brown*, 145 S. Ct. 1534 (2025); *United States v. Morgan*, 150 F.4th 1339, 1346 (10th Cir. 2025) (similar), *cert. denied*, 146 S. Ct. 907 (2025). The Seventh Circuit has likewise required challengers to show at the first step of the *Bruen* inquiry that the regulated firearm is one "that ordinary people would keep at home for purposes of self-defense," and is not a weapon that is "exclusively or predominantly useful in military service" or one that is "not possessed for lawful purposes." *Bevis v. City of Naperville*, 85 F.4th 1175, 1194 (7th Cir. 2023). On that basis, the Seventh Circuit has upheld a ban on semiautomatic rifles such as the AR-15. *See ibid.* And it upheld registration requirements for short-barreled rifles, declining to "make a step one finding that

short-barreled rifles are 'arms' protected by the Second Amendment's text." *United States v. Rush*, 130 F.4th 633, 640 (7th Cir. 2025).

2. This Court's review is warranted to resolve that conflict. Whether the regulated firearms are "Arms" is the threshold question for every Second Amendment challenge to Section 922(o)—and other state and federal laws that ban specified categories of weapons. If the weapon is not an "Arm[]," the challenge ends; if it is, the government must defend the law on historical grounds.

The disagreement over whether the "common use" inquiry belongs at *Bruen*'s first or second step is consequential. It determines whether the government must justify a categorical prohibition with historical evidence or may instead prevail without offering any—and, as this Court's decisions illustrate, the government does not always prevail when it is held to that burden. *See, e.g.*, *Hemani*, 608 U.S. at 783; *Wolford*, 609 U.S. at 208-212. For Section 922(o), too, the burden placement can be outcome-determinative. *Compare, e.g.*, *United States v. Morgan,* 2024 WL 3936767, at *4 (D. Kan. Aug. 26, 2024) (holding government did not carry its "burden" to show that Section 922(o) is "consistent with the nation's history of firearm regulation"); *with United States v. Morgan*, 150 F.4th 1339, 1345 (10th Cir.) (reversing on appeal because defendant did not meet his "burden under *Bruen* step one to show that his machineguns are 'arms' protected by the Second Amendment"). The Court should grant review to decide whether the Second Amendment's text covers the firearm at issue in this case.

C. At a Minimum, the Court Should Hold this Petition for *Viramontes* and *Grant*.

If this Court does not grant plenary review, the Court should hold the petition pending its decision in *Viramontes v. Cook County*, No. 25-238, and *Grant v. Higgins*, No. 25-566. The question presented in those cases is whether the Second Amendment protects AR-15 rifles and similar semiautomatic firearms. That question turns in part on whether a weapon's "common use" or dangerousness is part of *Bruen*'s plain-text inquiry or instead part of the government's historical burden. *See* U.S. Amicus Br. 8-9, 23-32, *Viramontes, supra*. In resolving those cases, the Court will "provide more guidance on which weapons the Second Amendment covers," *Harrel*, 144 S. Ct. at 2492 (statement of Thomas, J.), and its decision will bear directly on the proper analysis of the question presented here.

The Court appears to be holding several petitions raising similar questions presented. *See, e.g.*, *Porter v. United States*, No. 26-5121; *Wilson v. United States*, No. 26-5198; *Fisher v. United States*, No. 25-7652. The same course is warranted here. Consistent with its usual practice, if the Court grants relief in *Viramontes* and *Grant*—or otherwise clarifies the proper application of the *Bruen* inquiry—it should grant the petition, vacate the decision below, and remand for the court of appeals to consider that guidance in the first instance.

CONCLUSION

The petition for a writ of certiorari should be granted. In the alternative, the petition should be held pending the resolution of *Viramontes v. Cook County*, No. 25-238, and *Grant v. Higgins*, No. 25-566.

Respectfully submitted,

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NOVEMBER 2026