UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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United States Courthouse
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ORDER

August 10, 2026

Before

FRANK H. EASTERBROOK, *Circuit Judge*
ILANA DIAMOND ROVNER, *Circuit Judge*
THOMAS L. KIRSCH II, *Circuit Judge*

No. 24-2984	UNITED STATES OF AMERICA, Plaintiff - Appellee v. ERNEST CLARK, Defendant - Appellant
Originating Case Information:	
District Court No: 1:20-cr-00805-1 Northern District of Illinois, Eastern Division District Judge Virginia M. Kendall	

The following is before the court: **GOVERNMENT'S MOTION FOR SUMMARY AFFIRMANCE**, filed on August 5, 2026, by counsel for the appellee.

The issues presented in the appellant's opening brief have been resolved, adversely to appellant, by *United States v. Prince*, 171 F.4th 1009 (7th Cir. 2026), and *United States v. Watson*, 171 F.4th 1012 (7th Cir. 2026). Accordingly,

IT IS ORDERED that the government's motion is **GRANTED**, and the district court's judgment is summarily **AFFIRMED**.

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	No. 20 CR 805
v.	)	
	)	Judge Virginia M. Kendall
ERNEST CLARK.	)	

ORDER

Defendant Ernest Clark was a passenger in a car that three Chicago Police Department officers pulled over in September 2020. (Dkt. 101 at 1–2). An officer asked Clark to step out of the car. Clark initially refused. (*Id.* at 2–3). When he eventually did, the officer reached onto the seat where Clark was sitting and recovered a loaded Glock 19, 9mm semiautomatic pistol that Clark had been sitting on. (*Id.* at 4). The gun had a defaced serial number, an extended magazine, and a round chambered. (*Id.*)

Clark has several adult felony convictions in Illinois, including for unlawful use of a weapon (2005 and 2007), residential burglary (2009), and manufacture and delivery of a controlled substance (2013). (Dkt. 116 at 2). The government charged Clark with one count of unlawful possession of a firearm by a convicted felon. (Dkt. 1); *see* 18 U.S.C. § 922(g)(1).[1] Clark moves to dismiss the indictment, challenging the constitutionality of § 922(g)(1) as applied to him. (Dkt. 109).

"A party may raise by pretrial motion any defense, objection, or request that the court can determine without a trial on the merits," Fed. R. Crim. P. 12(b)(1), such as a constitutional violation. *See United States v. Lemons*, 302 F.3d 769, 770, 772–73 (7th Cir. 2002). When considering a motion to dismiss a criminal indictment, the Court assumes all facts are true and views them in the light most favorable to the government. *United States v. White*, 610 F.3d 956, 958 (7th Cir. 2010) (per curiam) ("An indictment is reviewed on its face, regardless of the strength or weakness of the government's case.").

This Court recently addressed another motion to dismiss an indictment arguing that the Supreme Court's holding in *New York State Rifle & Pistol Association v. Bruen*, 142 S. Ct. 2111 (2022), rendered § 922(g)(1) unconstitutional as applied to a defendant convicted of violent felonies. *See United States v. Dixon*, No. 22 CR 140, 2023 WL 2664076 (N.D. Ill. Mar. 28, 2023) (Kendall, J.). As this Court explained in *Dixon*, though, the prohibition on violent felons'

[1] "It shall be unlawful for any person—(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year; … to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition … ." 18 U.S.C. § 922(g)(1).

possession of firearms in § 922(g)(1) remains constitutional under the test *Bruen* set out. Clark's challenge here fails for the same reasons as in *Dixon*.

The Second Amendment provides: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." U.S. Const. amend. II. It protects "the individual right to possess and carry weapons in case of confrontation." *District of Columbia v. Heller*, 554 U.S. 570, 592 (2008); *see also Bruen*, 142 S. Ct. at 2122 ("[O]rdinary, law-abiding citizens have a … right to carry handguns publicly for their self-defense."). At the same time, "the right secured by the Second Amendment is not unlimited." *Heller*, 554 U.S. at 626. "[N]othing … should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill …." *Id.* at 626.

Last year in *Bruen*, the Supreme Court established the test for assessing the constitutionality of firearms regulations. The inquiry begins with the text. "[W]hen the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct." 142 S. Ct. at 2126, 2129–30. If the conduct is presumptively protected, then the government "must affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms." *Id.* at 2127. Applying this test demonstrates that § 922(g)(1) is constitutional as applied to Clark. The Second Amendment's text presumptively excludes felons. *Heller*, 554 U.S. at 626–27. And the historical tradition supports prohibitions on felons' possession of firearms. *Bruen*, 142 S. Ct. at 2126.

First, as discussed in *Dixon*, the "people" of the Second Amendment are not dangerous felons; they are law-abiding members of the community. *See Dixon*, 2023 WL 2664076, at *3–4 (citing U.S. Const. amend. II; *Heller*, 554 U.S. at 625). The Second Amendment's protection only extends to "*law-abiding* citizens" using weapons "for lawful purposes." *Heller*, 554 U.S. at 625 (emphasis added). It "elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home." *Bruen*, 142 S. Ct. at 2131 (quoting *Heller*, 554 U.S. at 635).

Clark has been convicted of four felonies, including crimes of violence. The Second Amendment thus presumptively excludes him as one of the "people" with a right to bear arms. *See Heller*, 554 U.S. at 635 (holding that the Second Amendment guarantees an individual's right to possess a firearm "[a]ssuming that [he] is not disqualified from the exercise of Second Amendment rights"); *McDonald v. City of Chicago*, 561 U.S. 742, 786 (2010) (plurality) (repeating *Heller*'s assurances of the presumptive lawfulness of "such longstanding regulatory measures as 'prohibitions on the possession of firearms by felons'" (quoting *Heller*, 554 U.S. at 626–27)); *Bruen*, 142 S. Ct. at 2132–33 ("*Heller* and *McDonald* point toward at least two metrics [for analogizing firearms regulations that are relevantly similar under the Second Amendment]: how and why the regulations burden a *law-abiding* citizen's right to armed self-defense."); *see also id.* at 2138 n.9 (noting the presumptive constitutionality of shall-issue firearms licensing regimes requiring background checks designed to ensure that only "*law-abiding, responsible* citizens" may exercise their right to bear arms) (emphasis added).

Second, regulating violent felons' possession of firearms accords with the nation's historical tradition. The government only needs to "identify a well-established and representative

historical *analogue*, not a historical *twin*" to the modern regulation. 142 S. Ct. at 2133. Prohibitions on firearm possession by felons are "longstanding." *Heller*, 554 U.S. at 626. As this Court discussed in *Dixon*, 18th century English and the colonial American governments commonly disarmed those who posed a danger to their communities. *See Dixon*, 2023 WL 2664076, at *4–5. *See also United States v. Skoien*, 614 F.3d 638, 640 (7th Cir. 2010) (en banc) (citing "highly influential" "precursor" to the Second Amendment asserting that "citizens have a personal right to bear arms 'unless for crimes committed, or real danger of public injury'"); *United States v. Yancey*, 621 F.3d 681, 684–85 (7th Cir. 2010) (per curiam) ("[M]ost scholars of the Second Amendment agree that the right to bear arms was tied to the concept of a virtuous citizenry and that, accordingly, the government could disarm 'unvirtuous citizens.'"); *Binderup v. Att'y Gen. United States of Am.*, 836 F.3d 336, 349 (3d Cir. 2016) ("The view that anyone who commits a serious crime loses the right to keep and bear arms dates back to our founding era."); *see also Kanter v. Barr*, 919 F.3d 437, 464 (7th Cir. 2019) (Barrett, J., dissenting) ("[History] support[s] the proposition that the state can take the right to bear arms away from a category of people that it deems dangerous."). At each turn, the Supreme Court has repeated such regulations' presumptive lawfulness. *See Heller*, 554 U.S. at 626; *McDonald*, 561 U.S. at 786; *Bruen*, 142 S. Ct. at 2162 (Kavanaugh, J., concurring).

Here, Clark has been convicted of several serious crimes, including crimes of violence. It is well within this country's history and tradition to disarm him to preserve the safety of the community. Section 922(g)(1) is therefore constitutional as applied to him. The Court denies Clark's Motion to Dismiss the Indictment. [109]

Virginia M. Kendall
United States District Judge

Date: June 20, 2023

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	No. 20 CR 805
v.	)	
	)	Judge Virginia M. Kendall
ERNEST CLARK.	)	

ORDER

Defendant Ernest Clark is charged with possessing a gun in violation of 18 U.S.C. § 922(g)(1).[1] (Dkt. 1). On June 20, 2023, this Court denied Clark's Motion to Dismiss the Indictment on Second Amendment grounds ("Order"). (Dkt. 121). That same day, the Seventh Circuit decided *Atkinson v. Garland*, 70 F.4th 1018 (7th Cir. 2023), remanding a Second Amendment challenge to § 922(g)(1) to the district court for further briefing and analysis in light of the Supreme Court's decision in *New York State Rifle & Pistol Association v. Bruen*, 142 S. Ct. 2111 (2022). Clark now moves this Court to reconsider the denial of his Motion to Dismiss the Indictment following *Atkinson*. (Dkt. 124). For the following reasons, his Motion for Reconsideration is denied. (*Id.*)

A party in a criminal prosecution may move the Court to reconsider a pretrial ruling based on a factual or legal error. *United States v. Rollins*, 607 F.3d 500, 502–03 (7th Cir. 2010) (citing *United States v. Healy*, 376 U.S. 75, 77–80 (1964)) (holding that common-law practice of motion to reconsider allows district judges to correct oversights and errors); *United States v. Dieter*, 429 U.S. 6, 8 (1976) (per curiam) (opportunity applies "whether the issue presented . . . is termed one of fact or of law")).

Clark argues that this Court erred in denying his Motion to Dismiss the Indictment given the recent *Atkinson* decision. In that case, Plaintiff Patrick Atkinson filed an action in 2021 challenging the constitutionality of the felon-in-possession statute as applied to him. *Atkinson*, 70 F.4th at 1021–22. His 24-year-old felony conviction for mail fraud prohibited him from lawfully owning a gun. *Id.*; *see also* 18 U.S.C. § 922(g)(1). The district court dismissed the case, relying on pre-*Bruen* Seventh Circuit precedent barring near-identical challenges. *Atkinson*, 70 F.4th at 1022; *see also Atkinson v. Garland*, 2022 WL 787934 (N.D. Ill. Mar. 15, 2022). Atkinson appealed and filed his brief about one month before the Supreme Court decided *Bruen* on June 23, 2022. *See* Brief for Appellant, *Atkinson v. Garland*, 70 F.4th 1018 (7th Cir. May 18, 2022) (No. 22-1557), 2022 WL 1670653. The government filed its appellee brief about one month after *Bruen* had been decided. *See* Brief for Appellees, *Atkinson v. Garland*, 70 F.4th 1018 (7th Cir. July 25, 2022) (No. 22-1557), 2022 WL 3007915. The parties argued the case before the Seventh Circuit in November 2022.

[1] Prior rulings in this case recount the underlying factual allegations. (Dkt. 121 at 1; Dkt. 137 at 1).

The Seventh Circuit in *Atkinson* emphasized *Bruen*'s significance and the new legal framework it set forth for Second Amendment challenges to firearms regulations. 70 F.4th at 1019. Because the district court had reached its decision before *Bruen* and the "parties' briefing on appeal only scratche[d] the surface of the historical analysis now required by *Bruen*," the Seventh Circuit remanded "to allow the district court to undertake the *Bruen* analysis in the first instance." *Id.* at 1020; *see also id.* at 1022 ("The parties' briefing does not grapple with *Bruen*. The best way forward, as we see it, is to return the case to the district court for a proper, fulsome analysis of the historical tradition supporting § 922(g)(1).").

On remand, the Seventh Circuit directed the parties and the district court focus their analysis on "[s]everal interrelated and non-exhaustive questions," *id.* at 1023, such as: (1) whether the statute addresses a "general societal problem that has persisted since the 18th century," (quoting *Bruen*, 142 S. Ct. at 2131); (2) what history tells us about disarming criminals, particularly felons; (3) whether broader historical analogues to § 922(g)(1) existed during the periods that *Bruen* emphasized; (4) whether analogous laws show a historical tradition of regulation to support § 922(g)(1); and (5) whether any such historical tradition also supports a distinction between violent and nonviolent felons, and if so, how to draw such a distinction. *Atkinson*, 70 F.4th at 1023–24. The court declined, however, to rule on the constitutionality of § 922(g)(1), either on its face or as applied to Atkinson. *See id.*

Unlike in *Atkinson*, though, the parties here had several months after *Bruen* was decided to fully grapple with its novel text-and-history framework. They did so in their briefing on Clark's motion to dismiss. (Dkts. 109, 116). This Court has applied *Bruen*'s framework in constitutional challenges to firearms regulations in both civil and criminal contexts. *See Bevis v. City of Naperville*, --- F. Supp. 3d ---, 2023 WL 2077392 (N.D. Ill. Feb. 17, 2023) (Kendall, J.) (upholding constitutionality of Illinois's ban on sale of assault-style rifles); *United States v. Dixon*, 2023 WL 2664076 (N.D. Ill. Mar. 28, 2023) (Kendall, J.) (denying motion to dismiss indictment charging violation of 18 U.S.C. § 922(g)(1)). Likewise, this Court applied the *Bruen* analytical framework when denying Clark's Motion to Dismiss. (*See* Dkt. 121). The Court referenced its prior reasoning in *United States v. Dixon* to explain that "the prohibition on violent felons' possession of firearms in § 922(g)(1) remains constitutional under the test *Bruen* set out." (Dkt. 121 at 1–2). *Atkinson* alters neither this Court's prior legal analysis nor the outcome for Clark.

First, § 922(g)(1) addresses a societal problem that has existed since the eighteenth century: individuals who have committed crimes pose a danger to the community. (*See* Dkt. 121 at 3).

> Keeping guns out of the hands of dangerous individuals is not a new phenomenon. In 18th century England, one arousing suspicion of an intention to commit any act of violence or disturbance of the peace was often prohibited from possessing a firearm. Colonial Americans then continued the English tradition of disarming those perceived as dangerous.

Dixon, 2023 WL 2664076, at *4 (internal citations omitted). The felon-in-possession statute responds to this societal concern. This Court's prior Order cited the longstanding legal history and tradition of disarming people perceived as dangerous or not law-abiding:

> [Eighteenth] century English and the colonial American governments commonly disarmed those who posed a danger to their communities. … *See also United States v. Skoien*, 614 F.3d 638, 640 (7th Cir. 2010) (en banc) (citing "highly influential" "precursor" to the Second Amendment asserting that "citizens have a personal right to bear arms 'unless for crimes committed, or real danger of public injury'"); *United States v. Yancey*, 621 F.3d 681, 684–85 (7th Cir. 2010) (per curiam) ("[M]ost scholars of the Second Amendment agree that the right to bear arms was tied to the concept of a virtuous citizenry and that, accordingly, the government could disarm 'unvirtuous citizens.'"); *Binderup v. Att'y Gen. United States of Am.*, 836 F.3d 336, 349 (3d Cir. 2016) ("The view that anyone who commits a serious crime loses the right to keep and bear arms dates back to our founding era."); *see also Kanter v. Barr*, 919 F.3d 437, 464 (7th Cir. 2019) (Barrett, J., dissenting) ("[History] support[s] the proposition that the state can take the right to bear arms away from a category of people that it deems dangerous.").

(Dkt. 121 at 3). *See also Dixon*, 2023 WL 2664076, at *4–5 ("The seeds of the Second Amendment were planted centuries ago in England, when King Charles II authorized his officers 'to search for and seize all Arms in the custody or possession of any person' whom they considered dangerous." (quoting *Frein v. Pa. St. Police*, 47 F.4th 247, 255 (3d Cir. 2022) (internal citation omitted))). Additionally, "the colonies also repeatedly disarmed full-fledged members of the political community as it then existed—*i.e.*, free, Christian, white men—whom the authorities believed could not be trusted to obey the law." *Range v. Garland*, 69 F.4th 96, 122 (3d Cir. 2023) (Krause, J., dissenting) (citing Nicholas J. Johnson et al., *Firearms Law and the Second Amendment: Regulation, Rights, and Policy* 174 (3d ed. 2022)). Early state legislatures likewise disarmed dangerous, non-law-abiding individuals. *Id.* at 124–25.

Furthermore, English and early American history demonstrates that the law treated felons harshly. Those who committed grave felonies were severely punished—up to and including execution, not to mention the forfeiture of their entire estate, which would naturally include all firearms. *Id.* at 126–27 (citing 4 William Blackstone, *Commentaries* *97–98); *see also* Robert Dowlut, *The Right to Arms: Does the Constitution or the Predilection of Judges Reign?*, 36 Okla. L. Rev. 65, 96 (1983) ("Colonial and English societies of the eighteenth century, as well as their modern counterparts, have excluded … felons."). As the D.C. Circuit observed, "it is difficult to conclude that the public, in 1791, would have understood someone facing death and estate forfeiture to be within the scope of those entitled to possess arms." *Medina v. Whitaker*, 913 F.3d 152, 158 (D.C. Cir. 2019). Disarming convicted felons, therefore, falls well within the historical tradition of rescinding the rights of those considered dangerous and non-law-abiding.

Broader historical analogues to the felon-in-possession statute existed during the periods that *Bruen* emphasized, and these analogous laws show a historical tradition of regulation supporting § 922(g)(1). For example, the early governments of Connecticut, Massachusetts, Rhode Island, North Carolina, Pennsylvania, and Virginia disarmed dissidents and others who posed a threat to the social order within their jurisdictions.[2] The Continental Congress enacted a similar

[2] *The Public Records of the Colony of Connecticut from May, 1775 to June, 1776,* at 193 (1890) (1775 law); 5 *The Acts and Resolves, Public and Private, of the Province of the Massachusetts Bay* 479–84 (1886) (1776 law); 7 *Records of the Colony of Rhode Island and Providence Plantations in New England* 567 (1862) (1776 law); 1 *The Public Acts of the General Assembly of North Carolina* 231 (1804) (1777 law); *Acts of the General Assembly of North Carolina*

regulation.[3] Dissidents and those who failed to swear loyalty to the nascent American governments were presumed untrustworthy; they were "dangerous outsiders." *See* Joseph Blocher & Caitlan Carberry, *Historical Gun Laws Targeting "Dangerous" Groups and Outsiders*, 8–11 (Duke L. Sch. Pub. L. & Legal Theory Series No. 2020-80). State governments continued to restrict dangerous, non-law-abiding individuals from owning firearms into the nineteenth century as well.[4]

Clark argues that these laws are not sufficiently analogous to § 922(g)(1) because they do not mention "felon" explicitly. (*See* Dkt. 141 at 10–14). *Bruen*, however, instructs that "analogical reasoning requires only that the government identify a well-established and representative historical *analogue*, not a historical *twin*." 142 S. Ct. at 2133. "Regulations that prevent dangerous individuals from acquiring or owning firearms … align with how 'the founders thought the legislature should decide which groups pose a threat to the social order or the community.'" *Dixon*, 2023 WL 2664076, at *4 (quoting Dru Stevenson, *In Defense of Felon-in-Possession Laws*, 43 Cardozo L. Rev. 1573, 1586 (2022)). In the mid-twentieth century, "Congress enacted an analogous prohibition in § 922(g)(1) to address modern conditions." *United States v. Jackson*, 69 F.4th 495, 504 (8th Cir. 2023). In doing so, Congress continued the tradition of keeping firearms out of the hands of presumptively dangerous people. *Id.* at 505 (citing *Lewis v. United States*, 445 U.S. 55, 64 (1980)).

Finally, the *Atkinson* Court asked the district court to consider whether the historical tradition of firearms regulation distinguishes between violent and nonviolent felons. The *Atkinson* plaintiff had been convicted of mail fraud, a nonviolent crime. 70 F.4th at 1021–22. The historical tradition appears to support restricting those who are non-law-abiding from acquiring firearms. *See Bruen*, 142 S. Ct. at 2138 n.9 (approving of shall-issue licensing regimes that require passing a background check or firearms-safety course because they "are designed to ensure only that those bearing arms in the jurisdiction are, in fact 'law-abiding, responsible citizens'"); *see also, e.g.*, *Jackson*, 69 F.4th at 504 (applying *Bruen* framework and finding that "history supports the authority of Congress to prohibit possession of firearms by persons who have demonstrated disrespect for the legal norms of society"). Some courts, however, have found that the historical tradition may not support prohibiting firearms possession by those convicted of certain subclasses of nonviolent felonies. *See Range*, 69 F.4th at 106 (holding in a "narrow decision" that § 922(g)(1) was unconstitutional as applied to individual convicted of the felony of lying on application for food stamps). Regardless, this Court need not address this question. Clark has not contested the proposition that he has been convicted of several felonies, including crimes of violence. (*See* Dkt. 121 at 1, 3). He unquestionably falls within the class of individuals constitutionally prohibited

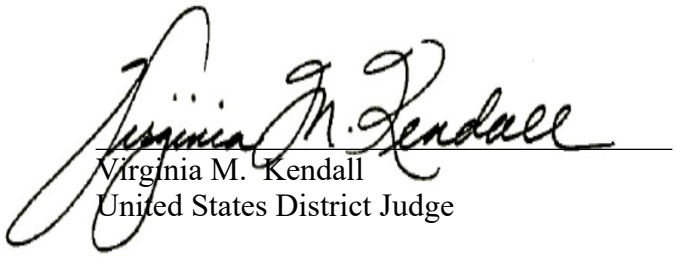
231 (1805) (1777 law); *Acts of the General Assembly of the State of New-Jersey at a Session Begun on the 27th Day of August, 1776*, at 90 (1777) (1777 law); 9 *The Statutes at Large of Pennsylvania from 1682 to 1801*, at 112–13; 9 *The Statutes at Large: Being A Collection of All the Laws of Virginia* 282 (1821) (1777 law).

[3] 4 *Journals of the Continental Congress 1774–1789*, at 193 (1890) (1776 law) ("*Resolved*, That it be recommended to the several assemblies, conventions, and councils or committees of safety of the United Colonies, immediately to cause all persons to be disarmed within their respective colonies, who are notoriously disaffected to the cause of America, or who have not associated, and shall refuse to associate, to defend, by arms, these United Colonies, against the hostile attempts of the British fleets and armies, ...").

[4] *See, e.g.*, Blocher & Carberry at 10 ("In Kansas, as late as 1868, no person who had 'ever borne arms against the government of the United States' could carry a pistol 'or other deadly weapon' within the limits of the state." (citing Ch. 31, art. 9, § 282 (1868), 1 General Statutes of the State of Kansas 329 (1876))).

from possessing firearms under § 922(g)(1). Even if the Court construed his Motion as an as-applied challenge, it fails.

The Court therefore denies Clark's Motion to Reconsider the denial of his motion to dismiss the indictment on Second Amendment grounds. [124]



Virginia M. Kendall
United States District Judge

Date: September 7, 2023

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	No. 20 CR 805
v.	)	
	)	Judge Virginia M. Kendall
ERNEST CLARK.	)	

ORDER

Defendant Ernest Clark, a convicted felon, is charged with possessing a gun in violation of 18 U.S.C. § 922(g)(1).[1] (Dkt. 1). On June 20, 2023, the Court held that § 922(g)(1) was constitutional under the Supreme Court's decision in *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. 1 (2022), and denied Clark's motion to dismiss his indictment on Second Amendment grounds. (Dkt. 121). The Court similarly denied Clark's motion for reconsideration under *Atkinson v. Garland*, 70 F.4th 1018 (7th Cir. 2023), because *Atkinson* did not conflict with the Court's prior order denying dismissal. (Dkt. 146). Since then, a court in this District issued *United States v. Prince*, holding that § 922(g)(1) was unconstitutional under the Second Amendment. 2023 WL 7220127 (N.D. Ill. Nov. 2, 2023). Clark now asks the Court to again reconsider its prior rulings in light of *Prince* and its progeny.[2] (Dkt. 149). For the following reasons, Clark's supplemental motion for reconsideration [149] is denied.

A party in a criminal prosecution may move the Court to reconsider a pretrial ruling based on a factual or legal error. *United States v. Rollins*, 607 F.3d 500, 502–03 (7th Cir. 2010) (holding that common-law practice of motion to reconsider allows district judges to correct oversights and errors (citing *United States v. Healy*, 376 U.S. 75, 77–80 (1964)); *United States v. Dieter*, 429 U.S. 6, 8 (1976) (per curiam) (opportunity applies "whether the issue presented . . . is termed one of fact or of law").

Clark's sole argument is that the Court should rule the same way as *United States v. Prince*, where a court in this District held that § 922(g)(1) was unconstitutional because: (1) "the people" in the Second Amendment included convicted felons and (2) the Government failed to show an analogous historical firearm regulation. But *Prince*, and its progeny, is not binding on this Court. At best, Clark has only highlighted that district courts in this Circuit disagree on the issue. *See, e.g.*, *United States v. Ball*, 2023 WL 8433981, at *5 (N.D. Ill. Dec. 5, 2023) (noting that most of

[1] Prior rulings in this case recount the underlying factual allegations. (Dkt. 121 at 1; Dkt. 137 at 1).

[2] In addition to *Prince*, Clark cites: Opinion and Order, *United States v. Neal*, 20 CR 335 (N.D. Ill. Feb. 7, 2024) (No. 93); *United States v. Taylor*, 2024 WL 245557 (S.D. Ill. Jan. 22, 2024); *United States v. Griffin*, 2023 WL 8281564 (N.D. Ill. Nov. 30, 2023); *United States v. Diaz*, 2023 WL 8019691 (N.D. Ill. Nov. 20, 2023); *United States v. Anderson*, 2023 WL 7531169 (N.D. Ill. Nov. 13, 2023); *United States v. Freeman*, 2023 WL 7325934 (N.D. Ill. Nov. 7, 2023); *United States v. Delaney*, 2023 WL 7325932 (N.D. Ill. Nov. 7, 2023); *United States v. Salme-Negrete*, 2023 WL 7325888 (N.D. Ill. Nov. 7, 2023); *United States v. Daniel*, 2023 WL 7325930 (N.D. Ill. Nov. 7, 2023).

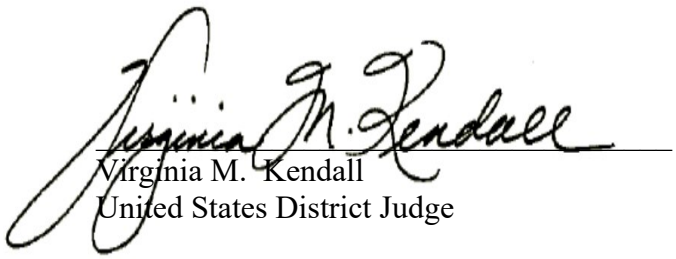
the district courts in this Circuit have held § 922(g)(1) as constitutional). Absent binding authority suggesting otherwise, the Court has not committed a legal error and reaffirms its prior ruling that § 922(g)(1) is constitutional under the Second Amendment and *Bruen*.

To start, "the people" of the Second Amendment are not dangerous felons. The Supreme Court, in three separate cases involving gun rights, have consistently concluded that the right to bear arms extends to "law-abiding citizens." *See Bruen*, 597 U.S. at 71 (holding that the New York firearm statute "violates the Fourteenth Amendment in that it prevents law-abiding citizens with ordinary self-defense needs from exercising their right to keep and bear arms"); *McDonald v. City of Chicago, Ill.*, 561 U.S. 742, 786 (2010) ("We made it clear in *Heller* that our holding did not cast doubt on such longstanding regulatory measures as 'prohibitions on the possession of firearms by felons and the mentally ill.'" (quoting *D.C. v. Heller*, 554 U.S. 570 626 (2008)); *Heller*, 554 U.S. at 625 (declaring that the Second Amendment "elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home"). While some courts have dismissed such language as dicta, this Court is unconvinced that it can ignore the Supreme Court's continuous reaffirmations.

Next, Clark argues that § 922(g)(1)'s permanent ban of firearm possession was not a "comparable burden on the right of self-defense" because historical laws allowed individuals to regain their right to bear arms. *Prince*, 2023 WL 7220127, at *8–9. Again, *Prince* only shows that reasonable minds can, and have, disagreed on how to approach *Bruen*'s historical traditions analysis. While *Bruen* cautioned courts not to "uphold every modern law that remotely resembles a historical analogue," it made clear that "analogical reasoning requires only that the Government identify a well-established and representative historical *analogue*, not a historical *twin*." *Bruen*, 597 U.S. at 30. Looking to English and American traditions, governments have routinely dispossessed individuals engaged in sedition and insurrection and "free, Christian, white men" "whom the authorities believed could not be trusted to obey the law." *United States v. Hardy*, 2023 WL 6795591, at *5 (N.D. Ill. Oct. 13, 2023). While *Prince* counters that those individuals deemed untrustworthy can regain their right to bear arms through loyalty oaths, "'a felon today [may] regain his right to possess firearms even after that right has been restricted under § 922(g)(1), specifically through expungement or pardon.'" *United States v. Calhoun*, 2024 WL 36977, at *11 (N.D. Ill. Jan. 3, 2024) (quoting *United States v. King*, 2023 WL 7936754, at *1 (N.D. Ill. Nov. 17, 2023)); *see also Atkinson*, 70 F.4th at 1026, 1035 n.3 (Wood, J., dissenting) (noting that under 18 U.S.C. § 921(a)(20), convictions that have been expunged or pardoned do not count for § 922(g)(1) purposes and "relief from disability is possible through executive clemency"). "The statutory scheme also leaves open the possibility for felons to seek administrative relief and regain their right to bear arms." *United States v. Vaughns*, 2023 WL 8258575, at *7 (N.D. Ill. Nov. 29, 2023) (citing 18 U.S.C. § 925(c)).[3] Therefore, the Government has met its burden of demonstrating that § 922(g)(1) "is consistent with the Nation's historical tradition of firearm regulation" and "is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms." *Bruen*, 579 U.S. at 19, 24.

For the foregoing reasons, Clark's supplemental motion to reconsider [149] is denied.

[3] Clark disputes that such relief is carved out of § 922(g)(1)'s permanent firearm ban or embedded within the statute. His argument is over semantics, but it does not diminish the fact that there are opportunities for felons to regain their rights to bear arms.



Virginia M. Kendall
United States District Judge

Date: February 23, 2024