No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

KIAR EVANS,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR A WRIT OF *CERTIORARI*

THOMAS W. PATTON
Federal Public Defender

/s/ *Daniel J. Hillis*
Daniel J. Hillis
Assistant Federal Public Defender
Counsel of Record
Office of the Federal Public Defender
600 E. Adams Street, 3rd Floor
Springfield, IL 62701
(217) 492-5070
Dan_Hillis@fd.org

Counsel for Petitioner

QUESTION PRESENTED

Since the Court issued its ruling in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022), frontline defense lawyers and prosecutors, along with district courts and courts of appeals, have grappled with how the holding applies to § 922(g)(1). Is the statute facially invalid? Is it subject to as-applied challenge? If so, how does that challenge work? Criminal defense lawyers and prosecutors have spent hours upon hours litigating these issues. District courts and appellate courts have expended massive amounts of time and energy ruling on these issues. Defense lawyers cannot stop raising the issue because this Court has not given us any final answers. Without answers from this Court, defense lawyers cannot tell clients that challenging the constitutionality of § 922(g)(1) is frivolous, even if the applicable court of appeals has rejected the argument. So, we must keep filing motions. We are stuck in purgatory, or ground hog day, or whatever metaphor strikes your fancy.

Perhaps the Court needed to flesh out *Bruen* on lesser used subsections of § 922(g) before tackling subsection (g)(1). *United States v. Rahimi*, 602 U.S. 680 (2024) (§ 922(g)(8)); *United States v. Hemani*, 146 S. Ct. 1677 (2026) (§ 922(g)(3)). That's understandable. But the time has come. We need an answer on § 922(g)(1) and we need it now.

The Question Presented is:

> Whether 18 U.S.C. § 922(g)(1), the federal statute that prohibits anyone who has been convicted of "a crime punishable by imprisonment for a term exceeding one year" from possessing a firearm, violates the Second Amendment as applied to Petitioner, based solely on a prior violent offense?

PARTIES TO THE PROCEEDING

Petitioner is Kiar Evans, who was the Defendant-Appellant in the court below. Respondent, the United States of America, was the Plaintiff-Appellee in the court below.

RELATED PROCEEDINGS

United States District Court (Northern District of Illinois):

United States v. Evans No. 1:21-cr-00396-1 (July 18, 2025)

United States Court of Appeals (7th Cir.):

United States v. Evans, No. 25-2344 (August 18, 2026)

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PETITION FOR A WRIT OF *CERTIORARI*

Petitioner Kiar Evans respectfully petitions for a writ of *certiorari* to review the judgment of the United States Court of Appeals for the Seventh Circuit.

OPINIONS BELOW

The court of appeals' order summarily affirming Mr. Evans's conviction is attached as Appendix A. It is not reported. The district court's order denying Mr. Evans's motion to dismiss is attached as Appendix B.

JURISDICTION

The Seventh Circuit entered its order summarily affirming Mr. Evans's conviction on August 18, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Second Amendment of 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.

Title 18 U.S.C. § 922(g)(1) provides:

> It shall be unlawful for any person ... who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year ... to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

STATEMENT OF THE CASE

The Seventh Circuit summarily affirmed the denial of Mr. Evans's as-applied challenge to § 922(g)(1) based on its decision in *United States v. Watson*, 171 F.4th 1012 (7th Cir. 2026). Appendix A. *Watson* held that § 922(g)(1) is subject to as-applied challenge but found the statute constitutional when applied to a defendant convicted of a drug distribution felony or a violent offense. The Circuit had stayed hundreds of § 922(g)(1) cases pending its decisions in *United States v. Prince*, 171 F.4th 1009 (7th Cir. 2026), addressing a facial challenge to § 922(g)(1), and *Watson*, an as-applied challenge to § 922(g)(1). Following its decisions in *Prince* and *Watson* (issued the same day), the Circuit began summarily affirming district court denials of as-applied challenges to § 922(g)(1) where the defendant has a prior conviction for drugs or violence. Because Mr. Evans has a prior conviction for a violent offense, his conviction was summarily affirmed based on *Watson*. Appendix A.

I. Petitioner's § 922(g)(1) Conviction Rests on a Violent Prior Offense.

Mr. Evans has a 2011 Illinois conviction for robbery, 720 ILCS 5/18-1(a). (PSR ¶36). *Watson* stated that § 922(g)(1) is constitutional as to individuals convicted of dangerous felonies. 171 F.4th at 1024.

After police found Mr. Evans in possession of a firearm, a grand jury in the Northern District of Illinois indicted him for violating 18 U.S.C. § 922(g)(1). (R.9). Mr. Evans filed a motion to dismiss the indictment arguing § 922(g)(1) was unconstitutional under *Bruen*. R.60.[1] Mr. Evans argued his prior felony convictions

[1] We refer to district court filings as "R.__:, and filings in the court of appeals as "C. of A.__."

should not prohibit him from possessing a firearm. *Id*. Accordingly, he claimed, § 922(g)(1) was unconstitutional as applied to him. *Id*. The district court denied Mr. Evans's motion to dismiss. Appendix B. The district court denied Mr. Evans's as-applied challenge. *Id*. at 2–8. Mr. Evans was found guilty by jury trial to the felon in possession count. (R.199). The district court sentenced Mr. Evans to 216 months' imprisonment and a 3-year supervised release term. (R.256). Mr. Evans filed a timely notice of appeal. (R.259).

II. The Seventh Circuit Denies Petitioner's As-Applied Challenge to § 922(g)(1).

Shortly after Mr. Evans filed his notice of appeal, the Seventh Circuit issued its opinion in *Watson*. Later Seventh Circuit authority cited *Watson* to conclude a defendant with a conviction for "robbery, aggravated battery, and aggravated assault" cannot plausibly argue § 922(g)(1) is unconstitutional as applied. See *United States v. Gaddis*, 2026 WL 7061913, at *3 (7th Cir. June 3, 2026). Mr. Evans's robbery conviction fits within what *Watson* deemed the sort of dangerous felony that prevents a defendant from making an as-applied challenge to § 922(g)(1) and is a barrier to such a challenge under Seventh Circuit caselaw. 171 F.4th at 1024.

The government filed a motion for summary affirmance, which the Seventh Circuit granted. Appendix A.

REASONS FOR GRANTING THE PETITION

There is a deeply entrenched circuit split over whether § 922(g)(1) is subject to an as-applied constitutional challenge. The Second, Fourth, Eighth, Ninth, Tenth, Eleventh, and D.C. Circuits have held that § 922(g)(1) is not subject to an as-applied challenge under *Bruen*. The Third, Fifth, Sixth, and Seventh Circuits, in contrast, have held that § 922(g)(1) is subject to an as-applied challenge under *Bruen*. The First Circuit has not yet ruled on the issue. That is reason enough for the Court to grant Mr. Evans's petition. But there's more.

The circuits that allow as-applied challenges vary wildly in how they apply this Court's case law to resolve challenges. Worse, the circuits are relying on ugly historical precedents of disarming citizens based on their religious beliefs or membership in disfavored classes, *i.e.*, Native Americans and formerly enslaved persons, to define the scope of the Second Amendment. This Court specifically rejected that reasoning in *Wolford v. Lopez*, 146 S. Ct. 2032 (2026). It is unconscionable that the scope of a fundamental constitutional right is being defined by discriminatory episodes of disarmament that the Bill of Rights and the Fourteenth Amendment purposefully rejected.

Finally, as explained in the question presented, defense lawyers and prosecutors need answers from this Court on § 922(g)(1)'s constitutionality. In fiscal year 2025, 10.8% of defendants sentenced in federal court (7,245 out of 66,662) were sentenced for offenses involving § 922(g). U.S. Sent'g Comm'n, Quick Facts: 18 U.S.C. § 922(g) Firearms (Fiscal Year 2025) (available at

https://www.ussc.gov/research/quick-facts/section-922g-firearms) (last visited September 4, 2026). Of the 7,245 individual defendants whose sentences involved § 922, 89% were convicted under subsection (g)(1). *Id*. That means last fiscal year defense lawyers had to deal with *Bruen* and its application to § 922(g)(1) 6,448 times.

In each case we had to discuss *Bruen*, and in most cases file motions challenging the § 922(g)(1) charge. The average non-ACCA § 922(g) sentence is 70 months' imprisonment. *Id*. For a defendant facing significant prison time, any potential challenge to § 922(g)(1) is worthwhile when their lawyer is forced to admit that a challenge is not frivolous because no one knows how this Court will rule on the issue. After all, some courts have found § 922(g)(1) facially unconstitutional and some have found it unconstitutional as-applied. The vast confusion in the lower courts means a challenge is not frivolous even if the applicable court of appeals has issued an opinion upholding § 922(g)(1) as this Court has not decided the issue. It is time for the Court to end this chaos.

I. The Courts of Appeals Are Split on the Availability of As-Applied Challenges to Section 922(g)(1).

The Seventh Circuit's decision in *Watson* contributes to a deep division in the courts of appeals over the threshold question of whether an individual may raise an as-applied challenge to § 922(g)(1) at all. Until this Court resolves that split, an individual's ability to invoke the Second Amendment in relation to the statute depends on geography. In some circuits, he may be imprisoned and permanently stripped of a constitutional right without even the opportunity to raise an as-

applied claim; in others, he may argue, and prevail, that § 922(g)(1) is unconstitutional as applied to him. This conflict underscores the need for this Court to weigh in regarding the proper framework for Second Amendment challenges under § 922(g)(1).

In addition to the Seventh Circuit, which entertained *Watson's* as-applied challenge,[2] the Fifth Circuit has recognized as-applied challenges under § 922(g)(1). In *United States v. Hembree*, 165 F.4th 909 (5th Cir. 2026), the panel held § 922(g)(1) unconstitutional as applied to a defendant whose sole predicate felony was possession of methamphetamine. It emphasized that the government bears a "heavy" burden to show that the challenged law is "relevantly similar to laws that our tradition is understood to permit," and concluded that the government had failed to carry that burden. *Id*. at 912, 916. The court also refused to treat simple possession as categorically "dangerous" enough to justify permanent disarmament. *Id*. at 917–18; *see also United States v. Martin*, 2026 WL 1180541, at *1 (5th Cir. Apr. 30, 2026) (following *Hembree* and holding § 922(g)(1) unconstitutional as applied to a defendant whose predicate conviction was also for drug possession).

As-applied challenges are also available in the Third Circuit. In *Range v. Attorney General*, 124 F.4th 218 (3d Cir. 2024) (en banc), the court held § 922(g)(1) unconstitutional as applied to an individual convicted of food-stamp fraud. The court reasoned that the government's asserted historical traditions were "far too

[2] *Watson* "reserve[d] ruling on an as-applied challenge to § 922(g)(1) under the Second Amendment by a felon whose predicate felony offense is not 'dangerous.'" 171 F.4th at 1025.

broad" to justify Range's penalty, emphasizing that "the Founding-era practice of punishing some nonviolent crimes with death does not suggest that the particular (and distinct) punishment at issue here—de facto lifetime disarmament for all felonies and felony-equivalent misdemeanors—is rooted in our Nation's history and tradition." *Id.* at 229, 231.

The Sixth Circuit has not yet invalidated § 922(g)(1) as-applied to a particular defendant, but it has acknowledged the viability of doing so. In *United States v. Williams*, the court suggested that a person convicted of a felony who can show he poses no danger may fall outside § 922(g)(1)'s constitutional reach. 113 F.4th 637, 662 (6th Cir. 2024). The court further observed that the administrative relief mechanism in 18 U.S.C. § 925(c)—through which ATF could restore firearm rights to qualifying felons—"remains practically unavailable" because Congress has historically denied funding for the program. *Id.* at 661.

In the Second, Fourth, Eighth, Ninth, Tenth, Eleventh, and D.C. Circuits, by contrast, such challenges are categorically unavailable, leaving defendants like those in *Hembree*, *Martin*, and *Range* permanently disarmed or imprisoned. *See Zherka v. Bondi*, 140 F.4th 68, 74–79, 91–93 (2d Cir. 2025); *United States v. Hunt*, 123 F.4th 697, 700 (4th Cir. 2024); *United States v. Jackson*, 110 F.4th 1120, 1125–26 (8th Cir.), *reh'g en banc denied*, 121 F.4th 656 (8th Cir. 2024); *United States v. Duarte*, 137 F.4th 743, 750–52, 761–62 (9th Cir. 2025) (*en banc*); *Vincent v. Bondi*, 127 F.4th 1263, 1265–66 (10th Cir. 2025); *United States v. Dubois*, 139 F.4th 887, 888–89 (11th Cir. 2025); *Medina v. Whitaker*, 913 F.3d 152, 160 (D.C. Cir. 2019).

Finally, the First Circuit has left for another day "whether as-applied challenges may be properly brought as to § 922(g)(1)." *United States v. Fort*, 176 F.4th 1, 7 (1st Cir. 2026).

The stakes of this conflict cannot be overstated. Section 922(g)(1) is one of the most frequently prosecuted provisions in the federal criminal code. In 2022, convictions under the statute accounted for nearly 12% of all federal criminal cases. *See* Supp. Br. for the Federal Parties, *Garland v. Range*, No. 23-374, at 5–6 (June 24, 2024). And in 2024, approximately 90% of all § 922(g) convictions fell under § 922(g)(1). U.S. Sent'g Comm'n, Quick Facts: 18 U.S.C. § 922(g) Firearms Offenses (Fiscal Year 2024). The circuit split means thousands of individuals may seek as-applied relief while thousands of others are denied even the opportunity to raise such a claim—an intolerable state of affairs in cases involving imprisonment and the loss of a constitutional right.

Apart from the disagreement among the circuits, § 922(g)(1) demands this Court's attention because it operates on a massive scale to strip millions of Americans of what this Court has called a "fundamental righ[t] necessary to our system of ordered liberty." *Rahimi*, 602 U.S. at 690; Sarah K. S. Shannon et al., *The Growth, Scope, and Spatial Distribution of People With Felony Records in the United States, 1948–2010*, 54 Demography 1795, 1806 (2017) (estimating that 19 million Americans had a felony record as of 2010). The statute's sweep also compounds the well-recognized problem of overcriminalization in this country; "criminal laws have grown so exuberantly and come to cover so much previously

innocent conduct that almost anyone can be arrested for something." *Nieves v. Bartlett*, 587 U.S. 391, 412 (2019) (Gorsuch, J., concurring in part and dissenting in part). Given the sheer volume of prosecutions under § 922(g)(1), its constitutionality is an important question worthy of this Court's review.

II. Reliance on the Disarmament of Groups Now Protected by the First and Fourteenth Amendments Cannot Justify § 922(g)(1).

The Seventh Circuit's opinion in *Watson* relied upon some of the most ignominious chapters in Anglo-American law to reject an as-applied challenge to § 922(g)(1). The panel recounted how English sovereigns disarmed Catholics, political dissidents, and the Welsh, and then turned to colonial and early American laws disarming enslaved persons, Native Americans, and free Black people. *Watson*, 171 F.4th at 1020–22. From these laws, the panel distilled the principle that "legislatures deemed groups 'dangerous' and categorically disarmed them." *Id*. The panel acknowledged that "this sad tradition includes laws repugnant by today's standards" and that "[m]any of these laws would violate the Fourteenth Amendment." *Id*. Despite these obvious problems, the panel concluded, "for this analysis their import cannot be ignored. These laws reflect the boundaries of the legislature's power to enact class-wide disarmament laws consistent with the Second Amendment." *Id*. The Sixth Circuit used the same analysis. *Williams*, 113 F.4th at 655 ("Classifying people as dangerous simply because of their race or religion was wrong from the beginning and unconstitutional from 1868. Nevertheless, these pre-Fourteenth Amendment laws provide insight into how early Americans conceived of the right to bear arms embodied in the Second

Amendment."). And the Fifth Circuit followed suit. *United States v. Kimble*, 142 F.4th 308, 315 (5th Cir. 2025) (quoting *Williams*).

This Court rejected this analysis in *Wolford*, issued about 3 months after *Watson*. In that case, Hawaii tried to rely on a Louisiana statute that disarmed formerly enslaved people to support its law prohibiting the carrying of a firearm onto private property open to the public without explicit permission from the property owner. *Wolford,* 146 S. Ct. at 2053. The Court emphatically rejected the argument, noting the statute in question was part of Louisiana's "Black Code" and was designed "to perpetuate the subjugation of blacks." *Id*. The Court refused to use that repugnant statute to define the right to keep and bear arms. The Court noted the Fourteenth Amendment was designed to reject this very type of discrimination against formerly enslaved people and to ensure their rights to keep and bear arms. *Id*. The Court concluded, "[u]nless we put history entirely out of our minds, Hawaii's claim that this tainted artifact illuminates the original understanding of the right to keep and bear arms cannot be taken seriously." *Id*.; *see also Rahimi*, 602 U.S. at 723 (Kavanaugh, J., concurring) ("in using pre-ratification history, courts must exercise care to rely only on the history that the Constitution actually incorporated and not on the history that the Constitution left behind").

The Seventh Circuit's analysis flatly contradicts *Wolford*. The panel built its entire analytical framework on "tainted artifact[s]" the Constitution "left behind." *Wolford*, 146 S. Ct. at 2053; *Rahimi*, 602 U.S. at 723 (Kavanaugh, J., concurring). The panel's conclusion that "[t]hese laws reflect the boundaries of the legislature's

power to enact class-wide disarmament laws consistent with the Second Amendment," *Watson*, 171 F.4th at 1022, has now been flatly rejected by this Court. *Wolford*, 146 S. Ct. at 2053. That fact alone supports this Court granting Mr. Evans's petition, vacating the Seventh Circuit's judgment, and remanding for reconsideration in light of *Wolford*.

III. The Seventh Circuit's Decision is Incorrect Because It Rests on Faulty Historical Analogies.

A. Even Accepting a Tradition of Disarming Groups Deemed "Dangerous," the Historical Analogy Fails Because the "Why" Does Not Match.

Under *Bruen*, *Rahimi*, and *Hemani*, the central inquiry is whether a modern regulation and its asserted historical analogues are "relevantly similar" in both "why" and "how." *Bruen*, 597 U.S. at 29; *Rahimi*, 602 U.S. at 692; *Hemani*, 146 S. Ct. at 1686. The "why" asks whether the modern and historical regulations address comparable problems for comparable reasons. The "how" asks whether they impose comparable burdens on the right. The more a modern law "diverges from traditional laws in purpose and operation, the less likely it is to survive review." *Hemani*, 146 S. Ct. at 1686.

In *Rahimi*, this Court demonstrated what a proper match looks like. Section 922(g)(8) survived constitutional scrutiny because it applied to individuals "found by a court to pose a credible threat to the physical safety of another," and the historical surety and going-armed laws burdened the right for relevantly similar reasons—they, too, "involved judicial determinations of whether a particular defendant likely would threaten or had threatened another." 602 U.S. at 698–99,

702. In short, both laws imposed firearm-related restrictions only after a particularized determination that a specific person presented a likely risk of physical danger. *Id.* at 698–99.

The "why" behind the historical tradition invoked by the Seventh Circuit—disarming groups deemed "dangerous"—does not match the "why" of § 922(g)(1). The old traditions were rooted in a narrow concern: rebellion against the sovereign, insurrection against the political order, or organized violence against the community.[3] *Duarte*, 137 F.4th at 797 (VanDyke, J., concurring in part and dissenting in part) (citing Jamie G. McWilliam, *Refining the Dangerousness Standard in Felon Disarmament*, 108 Minn. L. Rev. Headnotes 315, 324–25 (2024)). Section 922(g)(1) is worlds apart from that tradition. It punishes the simple fact of possession combined with the fact of a prior conviction for any "crime punishable by imprisonment for a term exceeding one year." 18 U.S.C. § 922(g)(1). The statute makes no distinction between violent and nonviolent predicate offenses—let alone offenses posing a risk to the sovereign or governing political order. Section 922(g)(1) sweeps in food-stamp fraud, after all.

B. The "Greater Includes the Lesser" Rationale Is Also Flawed.

Unwilling to rest its holding solely on the first regime, the Seventh Circuit turned to a second: the principle that because founding-era legislatures could

[3] The Fifth Circuit in *Rahimi* also pointed out that such laws "may well have been targeted at groups excluded from the political community—i.e., written out of 'the people' altogether—as much as they were about curtailing violence or ensuring the security of the state." *United States v. Rahimi*, 61 F.4th 443, 457 (5th Cir. 2023).

impose the death penalty for "felonies," they could also impose the lesser restriction of disarmament. *Watson*, 171 F.4th at 1022-23.

As an initial matter, a "felony" at the Founding "was a good deal narrower than now." *Lange v. California*, 594 U.S. 295, 311 (2021); *see also Tennessee v. Garner*, 471 U.S. 1, 14 (1985). Many offenses that are classified as felonies today were not criminal at all at the Founding, let alone punishable by death. *Garner*, 471 U.S. at 14. The greater-includes-the-lesser theory should not apply.

The theory is flawed on another level. As then-Judge Barrett recognized in *Kanter*, the historical support for the premise that all felonies were punishable by death is "shaky." 919 F.3d 437, 458 (7th Cir. 2019) (Barrett, J., dissenting). "During the period leading up to the founding, the connection between felonies and capital punishment started to fray." *Id.* at 459. The colonies "further limited the scope of crimes eligible for the death penalty relative to the English Common Law," and even for those crimes that were capital, "[t]he colonies carried out the death penalty 'pretty sparingly.'" *Duarte*, 137 F.4th at 788 (VanDyke, J., concurring in part and dissenting in part); *Folajtar v. Att'y Gen.*, 980 F.3d 897, 920 (3d Cir. 2020) (Bibas, J., dissenting). If the claimed "greater" capital punishment of all felonies "was in fact a historical fiction," then the greater-includes-the-lesser rationale cannot work. *Duarte*, 137 F.4th at 790 (VanDyke, J., concurring in part and dissenting in part).

And even if legislatures at the Founding could have imposed death for all felonies, the greater-includes-the-lesser reasoning leads to absurd results when applied to other constitutional rights. "[W]e wouldn't say that the state can deprive

felons of the right to free speech because felons lost that right via execution at the time of the founding." *Kanter*, 919 F.3d at 461–62 (Barrett, J., dissenting). "No one suggests that [someone with a felony conviction] has no right to a jury trial or [to] be free from unreasonable searches and seizures." *Williams*, 113 F.4th at 658. "The obvious point that the dead enjoy no rights does not tell us what the founding era generation would have understood about the rights of felons who lived, discharged their sentences, and returned to society." *Kanter*, 919 F.3d at 462 (Barrett, J., dissenting).

The Seventh Circuit noted that *Rahimi* employed a version of the greater-includes-the-lesser reasoning when it observed that "the lesser restriction of temporary disarmament that Section 922(g)(8) imposes is also permissible" because going-armed laws imposed the greater punishment of imprisonment. 602 U.S. at 699; *Watson*, 171 F.4th at 1023. But as the Second Circuit explained in *Zherka*, 140 F.4th at 68, this Court was merely "point[ing] out that specific early weapons regulations (the 'going armed' laws) imposed more severe penalties than the disarmament statutes at issue in that case." *Id.* at 83. This Court was not sanctioning "blanket reliance on eighteenth century capital punishment practice to validate any lesser deprivation later imposed on felons." *Id.*

C. Combining Insufficient Historical Analogies Does Not Create a Sufficient Historical Tradition.

Confronted with two traditions that provide weak support for § 922(g)(1), the panel stacked them together in the apparent hope that their combined weight would be sufficient. *See Watson*, 171 F.4th at 1024 (concluding that "'[t]aken together,'

these traditions support disarming those with dangerous felonies" (quoting *United States v. Dubois*, 139 F.4th 887, 894 (11th Cir. 2025) (Pryor, C.J., concurring))).

But under *Bruen*, *Rahimi*, and *Hemani*, identifying numerous insufficient historical examples does not a sufficient historical tradition make. The government's burden is to demonstrate that the challenged regulation is "relevantly similar" to historical laws in both purpose and operation—that is, to identify a coherent historical practice whose "why" and "how" actually track the modern statute. The Seventh Circuit identified no such practice. Instead, it cited one tradition (disarming groups deemed "dangerous") that fails to match § 922(g)(1)'s justification as applied to Petitioner, and a second tradition (capital punishment for "felons") that fails to match both justification and burden.

In repeatedly emphasizing that "why and how the regulation burdens the right are central to th[e] inquiry," *Rahimi*, 602 U.S. at 692 (citing *Bruen*, 597 U.S. at 29), this Court has never suggested that the "why" can be cherry-picked from one tradition, and the "how" from another. Instead, this Court has explained that the laws should be considered "relevantly similar" only if they address a comparable problem for comparable reasons and place a comparable burden on the right holder. *Id.*; *Bruen*, 597 U.S. at 27–30. These metrics should not be independent boxes that can be checked by reference to entirely different historical regimes; they must cohere in a single analogy that demonstrates the modern law is "consistent with the principles that underpin our regulatory tradition." *Rahimi*, 602 U.S. at 692; *see also id.* at 771–72 (Thomas, J., dissenting) (criticizing approach that "takes pieces from"

various historical analogues to support a statute's constitutionality, when the proper question is "whether a single historical law has both a comparable burden and justification as § 922(g)(8), not whether several laws can be cobbled together to qualify").

Hemani reinforces the point. This Court held that the government's historical analogues—vagrancy laws, civil-commitment statutes, and surety laws—"targeted different kinds of people, did so for different purposes, and operated in different ways" than § 922(g)(3). 146 S. Ct. at 1687. The government in *Hemani* attempted precisely what the Seventh Circuit did here: it marshaled multiple historical traditions, each insufficient on its own, and urged the Court to view them as collectively establishing the required analogy. This Court instead evaluated each proffered tradition on its own merits and found each wanting. *Id.* at 1687–95.

The government may respond that this Court in *Rahimi* permitted reliance on "two distinct legal regimes" that shared a common tradition. *Id.* at 694. But this Court did so only because both the surety laws and going-armed laws "specifically addressed firearms violence," *id.* at 694–95, and both "involved judicial determinations of whether a particular defendant likely would threaten or had threatened another." *Id.* at 699. These were not disparate traditions stitched together at a high level of abstraction to compensate for each other's shortcomings. Indeed, as Justice Barrett cautioned in concurrence: "[A] court must be careful not to read a principle at such a high level of generality that it waters down the right." 602 U.S. at 740 (Barrett, J., concurring).

Allowing the government to point to a tradition of disarming dangerous groups to supply one burden or justification, and the unrelated tradition of capital punishment to fill in the gaps, converts the analogical inquiry into a "regulatory blank check." *Bruen*, 597 U.S. at 30. It is the kind of analysis that "allow[s] legislatures to creatively fashion new categorical exclusions, thereby effectively gutting the Amendment's protections in a way that is at war with its original understanding." *Duarte*, 137 F.4th at 767 (Collins, J., concurring).

This Court should grant *certiorari* to make explicit what *Bruen*, *Rahimi*, and *Hemani* already strongly indicate: that the government cannot satisfy its burden by mixing and matching different historical traditions and treating them as collectively adequate. The inquiry demands a coherent historical practice that is, standing alone, relevantly similar to the challenged regulation.

IV. Under the Second Amendment, Assumptions About Dangerousness Should Not Be Allowed to Replace Evidence of It.

Even if the historical regimes discussed above establish that felons who are dangerous may be disarmed consistent with the Second Amendment, serious questions remain about how courts are to determine who qualifies as dangerous. That is yet another reason this case is a suitable vehicle for review: this Court can clarify that even under § 922(g)(1), the inquiry turns on evidence, not judicial presumptions about entire classes.

A. *Hemani* Forbids Reliance on Assumptions to Establish Categorical Dangerousness.

In *Hemani*, this Court made clear that the government cannot satisfy its burden under the Second Amendment by asking courts to accept, on faith, that the people it seeks to disarm are categorically dangerous. The government argued that § 922(g)(3) disarms unlawful drug users to "protect the public from 'unusually dangerous' individuals who will 'misuse . . . firearms' to commit 'violent crime[s].'" 146 S. Ct. at 1689. This Court refused to credit that assertion, troubled by the government's argument that "none of this turns on how much marijuana Mr. Hemani uses or what effect it has on him." *Id.* at 1693. In sum, the government "asks us to conclude that anyone who regularly uses marijuana is categorically violent and dangerous without any further showing. All based on little more than its current say-so, one at odds with its own regulatory actions." *Id.*

Regarding the purported connection between drugs and violence, moreover, this Court explained that "[w]ithout question, some unlawful users of controlled substances can pose a risk of violence." *Id.* at 1692. But "it is far from obvious that 18 U.S.C. § 922(g)(3) confines its reach to those who are categorically and unusually dangerous." *Id*. The lesson of *Hemani* is therefore clear: the Second Amendment demands more than a casual assumption that an entire class of people is dangerous. Instead, the inquiry requires proof that the defendant's prohibited conduct makes him incapacitated, violent, or otherwise dangerous. *Id.* at 1693.

B. The Seventh Circuit Has Determined Prior Violent Convictions Are Categorically Dangerous.

The same constitutional deficiency that doomed the government's position in *Hemani* dooms its position here. The Seventh Circuit summarily affirmed the

Petitioner's conviction because he has convictions for violent offenses. Based solely on the convictions, the Seventh Circuit found Petitioner was forever disarmed. The Circuit's finding was not supported by any citation of Congressional findings. Just the three judges opined what "common sense" says about which citizens should enjoy the Second Amendment right to keep and bear arms.

Just as the government in *Hemani* asked this Court to "conclude that anyone who regularly uses marijuana is categorically violent and dangerous without any further showing," the government here asked the Seventh Circuit to conclude that anyone with a prior conviction for a violent offense is categorically prohibited from possessing a firearm. 146 S. Ct. at 1693. But *Hemani* teaches that such "common sense" reasoning cannot substitute for the government's affirmative burden to provide evidence that a regulation is consistent with the Second Amendment's protections.

V. Section 925(c) Does Not Cure the Constitutional Problem.

Toward the end of *Watson*, the Seventh Circuit invoked 18 U.S.C. § 925(c) for the proposition that "felon status does not necessarily mean permanent disarmament." *Watson*, 171 F.4th at 1025. But § 925(c) offers no meaningful answer to Mr. Evans's as-applied challenge. The statute authorizes the Attorney General to restore a felon's firearm rights upon a showing that the person "will not be likely to act in a manner dangerous to public safety" and that the public interest supports rearmament. 18 U.S.C. § 925(c). Yet Congress defunded that program in 1992. *See Williams*, 113 F.4th at 661. As a result, the remedy "remains practically

unavailable." *Id*. In March 2025, the Attorney General took steps to breathe new life into the statute, *Watson*, 171 F.4th at 1025, and has now published a final rule regarding relief from federal firearm disabilities under § 925(c). *See* Application for Relief from Disabilities Rule, 91 Fed. Reg. 54054 (Aug. 20, 2026), https://www.federalregister.gov/documents/2026/08/20/2026-16981/application-for-relief-from-disabilities-imposed-by-federal-laws-with-respect-to-the-acquisition. The rule took effect on September 21, 2026. Of course, the new rule was of no use to Mr. Evans, who possessed the gun at issue earlier than that.

In any event, the government cannot be permitted to defeat an as-applied challenge because it might, in the Attorney General's discretion, "reinstate" a fundamental constitutional right. This Court rejected a similar argument in the First Amendment context. *United States v. Stevens*, 559 U.S. 460, 480 (2010). In *Stevens* the government tried to defend an unconstitutional statute reaching large swaths of protected speech by invoking its prosecutorial discretion and promising to only use the statute against "extreme" unprotected speech. The Court swiftly rejected that argument, retorting: "But the First Amendment protects against the Government; it does not leave us at the mercy of *noblesse oblige*." *Id*. Just so here. The Second Amendment protects the right to keep and bear arms *against the government*. Claiming the government can infringe a citizen's Second Amendment right to keep and bear arms because it may, in its mercy, allow the citizen to possess a firearm if the citizen asks nicely is perverse. The argument

turns the idea of fundamental constitutional rights on its head and must be rejected out of hand.

CONCLUSION

The Court should grant the petition for a writ of *certiorari*.

Respectfully submitted,

THOMAS W. PATTON
Federal Public Defender

/s/ *Daniel J. Hillis*
Daniel J. Hillis
Assistant Federal Public Defender
Counsel of Record
Office of the Federal Public Defender
600 E. Adams Street, 3rd Floor
Springfield, Illinois 62701
(217) 492-5070
Dan_Hillis@fd.org

Counsel for Petitioner

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APPENDIX

TABLE OF APPENDICES

Appendix A: Seventh Circuit's Order Summarily Affirming Mr. Evans's Conviction 1a

Appendix B: Order Denying Mr. Evans's Motion to Dismiss 2a-8a