No. 26-

IN THE

Supreme Court of the United States

ALEX LEON PADGETT, JOEL MICHAEL RYNO
Petitioners,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

DANIELLE HAMILTON
THE CARTER G. PHILLIPS/
SIDLEY AUSTIN LLP
SUPREME COURT CLINIC
NORTHWESTERN PRITZKER
SCHOOL OF LAW
375 EAST CHICAGO
AVENUE
CHICAGO, IL 60611
(312) 503-1486

JEFFREY T. GREEN
Counsel of Record
GREEN LAUERMAN
CHARTERED PLLC
1050 30TH STREET NW
WASHINGTON, D.C. 20007

DANIEL POULSON
FEDERAL PUBLIC
DEFENDER FOR THE
DISTRICT OF ALASKA
188 W. NORTHERN LIGHTS
BLVD., SUITE 700
ANCHORAGE, AK 99503

Counsel for Petitioners

November 20, 2026

QUESTION PRESENTED

Whether 18 U.S.C. § 922(g)(9)'s permanent, lifetime ban on firearm possession by domestic violence misdemeanants is unconstitutional as applied to individuals whose misdemeanor conviction involved nonviolent conduct?

PARTIES TO THE PROCEEDING AND RULE 29.6 STATEMENT

Petitioners Alex Leon Padgett and Joel Michael Ryno were each convicted of one count of possessing firearms in violation of 18 U.S.C. § 922(g)(9). They are the defendants-appellants in the proceedings below.

Respondent is the United States. There are no corporate parties involved in this case.

RULE 14.1(b)(iii) STATEMENT

This case arises from the following proceedings in the United States District Court for the District of Alaska and the United States Court of Appeals for the Ninth Circuit:

United States v. *Martinez,* 169 F.4th 1147 (9th Cir. 2026).

United States v. *Padgett*, No. 3:21-cr-00107-TMB-KFR, 2023 WL 2986935 (D. Alaska Apr. 18, 2023).

United States v. *Ryno*, 675 F. Supp. 3d 993 (D. Alaska 2023).

No other proceedings relate directly to this case.

TABLE OF CONTENTS

Page

Question presented i

Parties to the proceeding and Rule 29.6 statement ii

Table of authorities **Error! Bookmark not defined.**

Petition for a writ of certiorari 1

Opinions and orders below 1

Statement of jurisdiction 1

constitutional and statutory provisions involved 1

Introduction 4

Statement of the case 5

Reasons for granting the petition 7

I. The circuits and states are openly split on whether a lifetime prohibition on possession of firearms by a person convicted of a misdemeanor crime of domestic violence is subject to as-applied challenges 7

II. The decision below is wrong 11

A. Under this Court's precedent, the permanent disarmament of domestic violence misdemeanants is unconstitutional in at least some circumstances, and as-applied challenges must be allowed. 11

B. The regulatory landscape confirms that § 922(g)(9) is unconstitutional at least in some circumstances. 15

III. This case is an ideal vehicle to resolve the split. 17

Conclusion 19

TABLE OF AUTHORITIES

CASES Page

Commonwealth v. *Frazier*,
722 S.W.3d 541 (Ky. Ct. App. 2025) 10
Johnson v. *United States*,
559 U.S. 133 (2010) 14
McDonald v. *City of Chicago*,
561 U.S. 742 (2010) 4
New York State Rifle & Pistol Ass'n, Inc. v. *Bruen*,
597 U.S. 1 (2022) 13
Ex parte Parker,
131 U.S. 221 (1889) 17
State v. *Compton*,
No. M2025-00217-CCA-R3-CD, 2026 WL 1256384 (Tenn. Crim. App. May 7, 2026) 10
State v. *McCray*,
321 Kan. 316 (2025) 8, 9
State v. *Schadl*,
37 N.W.3d 337 (Iowa 2026)..... 8
State v. *Vassallo*,
36 Wash. App. 2d 1076 (2025) 10
United States v. *Allred*,
182 F.4th 448 (5th Cir. 2026) 7, 8, 9
United States v. *Bernard*,
136 F.4th 762 (8th Cir. 2025) 9
United States v. *Castleman*,
572 U.S. 157 (2014) 14
United States v. *Hemani*,
608 U.S. 772 (2026) 13, 14, 16, 17
United States v. *Jackson*,
138 F.4th 1244 (10th Cir. 2025) 8
United States v. *Jacobs*,
166 F.4th 395 (4th Cir. 2026) 4, 7, 9

TABLE OF AUTHORITIES—continued

United States v. *Martin*,
No. 24-3750, 2025 WL 1913185 (6th Cir. July 11, 2025) 8
United States v. *Martinez*,
169 F.4th 1147 (9th Cir. 2026) 4, 7, 9, 11, 12
United States v. *Minor*,
165 F.4th 616 (1st Cir. 2026) 5, 9
United States v. *Odom*,
No. 24-5363, 2024 WL 5002655 (6th Cir. Dec. 6, 2024) 8
United States v. *Rahimi*,
602 U.S. 680 (2024) 6, 7,11, 12
United States v. *Simmons*,
150 F.4th 126 (2d Cir. 2025) 9, 10
United States v. *Stevens*,
559 U.S. 460 (2010) 17
Voisine v. *United States*,
579 U.S. 686 (2016) 13, 14

CONSTITUTIONAL PROVISIONS AND STATUTES

18 U.S.C. § 921(a)(33) 2
18 U.S.C. § 921(a)(33)(B)(ii) 12
18 U.S.C. § 921(a)(33)(C) 12
18 U.S.C. § 922(g)(9) 2
18 U.S.C. § 925(c) 17
Ariz. Rev. Stat. Ann. § 13-3101(A)(7)(d) 15
Cal. Penal Code § 1203.4(a)(2) 12
Cal. Penal Code § 1203.4a(c)(2) 12
Cal. Penal Code § 29805(a)(1) 15
Cal. Penal Code § 29805(b) 15
Colo. Rev. Stat. § 18-6-801(8)(a) 15
Conn. Gen. Stat. § 53a-217(a)(1)(C) 15
Conn. Gen. Stat. § 53a-217(a)(1)(D) 15
D.C. Code § 22-4503(a)(6) 15

Del. Code Ann. tit. 11 § 1448(d) 15
Kan. Stat. Ann. § 21-6301(a)(18) 15

TABLE OF AUTHORITIES—continued

La. Rev. Stat. Ann. § 14:95.10(E) 15
Me. Rev. Stat. Ann. tit. 15, § 393(1-B) 15
Mich. Comp. Laws § 750.224f(5) 15
Minn. Stat. § 624.713 15
N.D. Cent. Code § 62.1-02-01(1)(b) 15
Neb. Rev. Stat. § 28-1206(1)(b) 15
R.I. Gen. Laws § 11-47-5.5(b) 15
S.C. Code Ann. § 16-25-30(A) 15
S.C. Code Ann. § 16-25-30(E)(3) 15
S.D. Codified Laws § 22-14-15.2 15
Tex. Penal Code Ann. § 46.04(b) 15
U.S. Const. ammend. II. 1
Va. Code Ann. § 18.2-308.1:8(C) 15

OTHER AUTHORITIES

28 C.F.R. Ch. I, Pt. 107 17
28 C.F.R. § 107.10 17
Application for Relief from Disabilities Imposed by Federal Laws, 91 Fed. Reg. 54054 (Aug. 20, 2026) 16

PETITION FOR A WRIT OF CERTIORARI

Joel Michael Ryno and Alex Leon Padgett respectfully petition for a writ of certiorari to review the judgment of the U.S. Court of Appeals for the Ninth Circuit.[1]

OPINIONS AND ORDERS BELOW

The opinion of the court of appeals is reported at 169 F.4th 1147 and reproduced at Pet. App. 3a–21a. The unreported order denying panel rehearing and rehearing *en banc* is reproduced at Pet. App. 1a. The district court's orders are reproduced at Pet. App. 22a–35a; 36a–51a.

STATEMENT OF JURISDICTION

The Ninth Circuit entered judgment on March 18, 2026, and denied a timely rehearing petition on July 23, 2026. On October 16, Justice Kagan extended the time to file this petition to November 20, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Second Amendment provides that:

---

[1] The Ninth Circuit consolidated Petitioners' respective appeals with the separately filed appeal in *United States v. David Paul Martinez*. Mr. Martinez was represented by the Office of the Federal Public Defender in San Franscisco, and was the lead appellant in the Ninth Circuit. Petitioners were represented by the Office of the Federal Public Defender in Anchorage, Alaska. Mr. Martinez has elected to file his petition for a writ of certiorari separately and, with the assent of Messrs. Ryno and Padgett, filed first.

> 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(g)(9) provides that:

> It shall be unlawful for any person…
>
> (9) who has been convicted in any court of a misdemeanor crime of domestic violence,
>
> 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.

18 U.S.C. § 921(a)(33) provides in relevant part:

> (A) Except as provided in subparagraphs (B) and (C), the term "misdemeanor crime of domestic violence" means an offense that—
>
> (i) is a misdemeanor under Federal, State, Tribal, or local law; and
>
> (ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, by a person similarly situated to a spouse, parent, or guardian of the victim, or by a person who has a current or recent former dating relationship with the victim.
>
> . . .
>
> [(B)](ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged

or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(C) A person shall not be considered to have been convicted of a misdemeanor crime of domestic violence against an individual in a dating relationship for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had firearm rights restored unless the expungement, pardon, or restoration of rights expressly provides that the person may not ship, transport, possess, or receive firearms: *Provided*, That, in the case of a person who has not more than 1 conviction of a misdemeanor crime of domestic violence against an individual in a dating relationship, and is not otherwise prohibited under this chapter, the person shall not be disqualified from shipping, transport, possession, receipt, or purchase of a firearm under this chapter if 5 years have elapsed from the later of the judgment of conviction or the completion of the person's custodial or supervisory sentence, if any, and the person has not subsequently been convicted of another such offense, a misdemeanor under Federal, State, Tribal, or local law which has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, or any other offense that would disqualify the person under section 922(g). . . . Restoration under this subparagraph is not available for a current or former spouse, parent,

> or guardian of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or a person similarly situated to a spouse, parent, or guardian of the victim (emphasis added).

INTRODUCTION

The question presented is the subject of an acknowledged circuit split. The split results from this Court's most recent Second Amendment decisions, which point strongly towards allowing as-applied challenges to prevent the Second Amendment right from becoming a "second-class right." *McDonald* v. *City of Chicago*, 561 U.S. 742, 780 (2010).

For petitioners, both of whom are residents of rural Alaska where firearms are a common necessity, the outcome will determine their ability to bear arms not only for self-defense and defense of property, but also wildlife defense, subsistence hunting and recreation. Yet the Ninth Circuit below held that § 922(g)(9) is facially constitutional in all its applications and as-applied challenges are not available, leaving courts and litigants no room to question "Congress's determination that members of a class of convicted criminals are dangerous." See *United States* v. *Martinez*, 169 F.4th 1147, 1157 (9th Cir. 2026).

At least four circuits recognize as-applied challenges and have conducted some form of individualized analysis when ruling on such challenges. See, *e.g.*, *United States* v. *Jacobs*, 166 F.4th 395, 399 (4th Cir. 2026) (remanding an as-applied challenge to the lower court to develop a factual record of the defendant's criminal record and circumstances).

At least two circuits and three states have upheld the facial constitutionality of § 922(g)(9) and similar bans without foreclosing the possibility of future as-applied challenges. See, *e.g.*, *United States* v. *Minor*, 165 F.4th 616, 623 (1st Cir. 2026), *cert. denied,* 2026 WL 3384188 (2026) ("Because we conclude that the basis for Minor's as-applied challenge fails anyway, we reserve [the question whether § 922(g)(9) is constitutional in all applications] for another day.").

The Ninth Circuit's categorical rejection of as-applied challenges to the lifetime firearms ban for domestic violence misdemeanants, including those whose convictions did not involve violent conduct, cannot be squared with history, tradition, and this Court's Second Amendment precedent.

STATEMENT OF THE CASE

1. Joel Michael Ryno was twice convicted of misdemeanor fourth-degree assault under Alaska Statute § 11.41.230(a)(1) for "recklessly caus[ing] physical injury" to a protected individual. Pet. App. 7a. Thereafter, on three separate occasions, law enforcement officers seized firearms in Ryno's possession. *Id.* at 8a. Ryno was charged with one count of possessing firearms in violation of 18 U.S.C. § 922(g)(9). *Id.* Ryno pled guilty pursuant to a conditional plea agreement he reached with the government allowing him to appeal the constitutionality of § 922(g)(9) under the Second Amendment. He received a sentence of 37 months' imprisonment and 3 years' supervised release. Pet. App. 53a.

2. In 2021, Alex Leon Padgett shot and killed a bear near his home in Alaska. Pet. App. 8a. Padgett told law enforcement that the bear had eaten one of his chickens four days prior and had returned every day since then. Presentence Report in No. 23-cr-6 (D. Alaska.),

ECF Doc. 81, p. 4. When it was shot, the bear had been climbing on the trampoline and children's play equipment in Padgett's backyard. *Id.* Following that incident, law enforcement officers seized two firearms from Padgett's home. Pet. App. 8a. Padgett had prior domestic-violence convictions, including a 2010 conviction for fourth-degree assault, a misdemeanor, under Alaska Statute § 11.41.230(a)(1). *Id.* Padgett was subsequently charged under 18 U.S.C. § 922(g)(9), which prohibits possession of "any firearm or ammunition" by anyone "who has been convicted in any court of a misdemeanor crime of domestic violence." Pet. App. 7–8a. Padgett pled guilty pursuant to a conditional plea agreement which preserved his right to appeal the constitutionality of § 922(g)(9) under the Second Amendment. Padgett received a time-served sentence and 3 years' supervised release. Pet. App. 59a. On February 3, 2026, Padgett was granted early termination of supervised release, which was non-opposed by the government.

3. Before the district court and again on appeal before the Ninth Circuit, Mr. Padgett and Mr. Ryno argued that 18 U.S.C. § 922(g)(9) is unconstitutional on its face and as applied to their circumstances. Unlike the § 922(g)(8)(C)(i) restriction upheld in *United States* v. *Rahimi*, 602 U.S. 680 (2024), which is temporary and follows an individualized judicial finding of future dangerousness, the § 922(g)(9) prohibition is permanent and requires no comparable finding. Furthermore, qualifying misdemeanors can rest on reckless conduct, as both Mr. Padgett and Mr. Ryno's convictions under Alaska Statute § 11.41.230(a)(1) did. Therefore, Mr. Padgett and Mr. Ryno argued that § 922(g)(9) is unconstitutional at least as applied to individuals like themselves, who pose no clear threat of

future violence, let alone a lifetime threat of future violence.

The Ninth Circuit disagreed. It held that § 922(g)(9) is analogous to founding era surety and going armed laws this Court had identified in *Rahimi*, 602 U.S. 680, to uphold the temporary firearm prohibition in 18 U.S.C. § 922(g)(8), and that Congress can categorically disarm a group it deems dangerous, without the need to engage in a "misdemeanor-by-misdemeanor inquiry." Pet. App. 20a. A motion for panel or *en banc* rehearing was denied on July 23, 2026. Pet. App. 1a.

REASONS FOR GRANTING THE PETITION

I. The circuits and states are openly split on whether a lifetime prohibition on possession of firearms by a person convicted of a misdemeanor crime of domestic violence is subject to as-applied challenges.

The Fourth Circuit recognizes as-applied challenges to § 922(g)(9). See *Jacobs*, 166 F.4th at 399. The court instructed the district court to ascertain the date and circumstances of the defendant's predicate offense, the circumstances surrounding his § 922(g)(9) charge, and the defendant's conduct between his predicate misdemeanor conviction and the events underlying the instant charge, although it allowed that there may be other factors relevant to an as-applied challenge. *Id.*

The Fifth Circuit also recognized as-applied challenges to § 922(g)(9) in *United States* v. *Allred*, 182 F.4th 448, 450–55 (5th Cir. 2026), although the panel split regarding the methodology for assessing as-applied challenges. The majority adopted a misdemeanor-by-misdemeanor analysis and held that the statute is constitutional as applied to a conviction for

intentionally, knowingly, or recklessly causing bodily injury to another person. *Id.* at 453. The concurrence endorsed the Fourth Circuit's individualized approach in *Jacobs* and warned that the failure to consider the defendant's history and conduct exacerbated an already "robust circuit split." See *id.* at 455–58 (Graves, J., concurring in the judgment) (citation omitted).

The Sixth Circuit has rejected as-applied challenges to § 922(g)(9) after conducting an individualized analysis of the conduct underlying the defendants' predicate misdemeanor convictions. See *United States* v. *Martin*, No. 24-3750, 2025 WL 1913185, at *3 (6th Cir. July 11, 2025); *United States* v. *Odom*, No. 24-5363, 2024 WL 5002655, at *1 (6th Cir. Dec. 6, 2024).

The Tenth Circuit has considered an as-applied challenge to § 922(g)(9). See *United States* v. *Jackson*, 138 F.4th 1244 (10th Cir. 2025). The court examined the defendant's prior conduct and convictions and concluded that the § 922(g)(9) ban properly mitigated the threat of physical violence demonstrated by his circumstances. *Id.* at 1254.

The Supreme Court of Iowa upheld an as-applied challenge to the state analogue of § 922(g)(9) in *State* v. *Schadl*, 37 N.W.3d 337, 340 (Iowa 2026). There, the court held that the indefinite firearms prohibition imposed on the defendant was unconstitutional under Iowa's right-to-keep-and-bear-arms constitutional protection given that "there's no evidence . . . that [the defendant] brandished or used a weapon in the offense" and that he "had gone fourteen years without reoffending." *Id.* at 345.

The Supreme Court of Kansas rejected facial and as-applied challenges to the state's five-year firearms ban for misdemeanor crimes of domestic violence in *State* v. *McCray*, 321 Kan. 316, 331 (2025). In denying

the as-applied challenge, the court relied *inter alia* on the short period of time that had elapsed since the defendant's domestic battery conviction and the fact that the police discovered his firearms while responding to a reported domestic disturbance. *Id.* at 331–32. The court also stressed that the state law restricted firearm possession only for five years, which is "substantially less onerous than the permanent federal restriction in . . . § 922(g)(9)." *Id.*

Other courts have signaled but have not held that as-applied challenges under the Second Amendment are permissible in § 922(g)(9) cases. **The First Circuit** this year stated in *Minor*, 165 F.4th at 623, that "[b]ecause we conclude that the basis for Minor's as-applied challenge fails anyway, we reserve [the question whether § 922(g)(9) is constitutional in all applications] for another day."

The Eighth Circuit has similarly left open the possibility of future as-applied challenges. See *United States* v. *Bernard*, 136 F.4th 762, 766 (8th Cir. 2025), *cert. denied*, 146 S. Ct. 254 (2025). There, because the defendant had only raised a facial challenge, the court declined to rule on whether § 922(g)(9) is constitutional in all its applications. See *id.*

The Second Circuit too appears to have left open the door to as-applied challenges to § 922(g)(9), although its sister circuits disagree over its holding.[2] See

---

[2] The Ninth Circuit's decision below reads *Simmons* as holding that § 922(g)(9) is *per se* constitutional. *See Martinez*, 169 F.4th at 1157. By contrast, the Fourth and the Fifth Circuits read *Simmons* as allowing, or at least not foreclosing, as-applied chal-

(continued . . .)

United States v. *Simmons*, 150 F.4th 126, 131 (2d Cir. 2025). There, the Second Circuit rejected on plain error review both a facial and an as-applied challenge "because Simmons offers no basis to distinguish himself from other domestic violence misdemeanants for purposes of assessing the constitutionality of the statute." See *id.*

Other state courts have also left the door open to as-applied challenges. See *State* v. *Vassallo*, 36 Wash. App. 2d 1076, at *20 n.13 (2025), review denied, 6 Wash. 3d 1021 (2026) (rejecting the appellant's as-applied challenge for failure to cite to legal authority without foreclosing future as-applied challenges); *State* v. *Compton*, No. M2025-00217-CCA-R3-CD, 2026 WL 1256384, at *11 (Tenn. Crim. App. May 7, 2026) (stating that the defendant's arguments "are better suited to as-applied challenges"); *Commonwealth* v. *Frazier*, 722 S.W.3d 541, 548 (Ky. Ct. App. 2025) (rejecting the defendant's as-applied challenge for a lack of factual record without ruling on its merits).

* * *

The result of this split is a patchwork of jurisdictions in which as-applied challenges are allowed, others where they are foreclosed, and a sizable number of jurisdictions where they may be possible. Given the number of gun prosecutions in the federal and state courts, the problem is plainly a recurring one, and for

---

lenges. *See Allred*, 182 F.4th at 455 (reading *Simmons* as "allowing the possibility for an individualized assessment in future as-applied challenges") (Graves, J., concurring); *Jacobs*, 166 F.4th at 400 (reading *Simmons* as "leaving open the door for as-applied challenges to § 922(g)(9) where the defendant offers [a] basis to distinguish himself from other domestic violence misdemeanants") (citation omitted).

both Mr. Ryno and Mr. Padgett, who have been deprived of their fundamental liberty interests, including terms of incarceration, a very important one. The existence of this patchwork also means that defense attorneys and defendants in uncertain jurisdictions *must* mount as-applied constitutional challenges in order to preserve their claims while their jurisdictions, and ultimately this Court, determine which side of the existing split to take. In those jurisdictions where as-applied challenges are foreclosed, law-abiding citizens who are demonstrably not dangerous (and never were adjudicated to be so), suffer under the stigma of a permanent ban on exercising a constitutional right. This level of division and confusion over the scope of a fundamental constitutional right warrants the Court's intervention.

II. The decision below is wrong.

A. Under this Court's precedent, the permanent disarmament of domestic violence misdemeanants is unconstitutional in at least some circumstances, and as-applied challenges must be allowed.

The Ninth Circuit's decision rested on two pillars: analogy to 18 U.S.C. § 922(g)(8)(C)(i), which prohibits firearm possession by an individual subject to a domestic violence restraining order, and which this Court upheld in *Rahimi*, 602 U.S. 680; and deference to Congress's "determination that members of a class of convicted criminals are dangerous," therefore obviating the need for "a misdemeanor-by-misdemeanor inquiry under § 922(g)(9)." *Martinez*, 169 F.4th at 1154–57. Neither pillar finds support in this Court's precedent.

1. In *Rahimi*, this Court identified founding era surety and going armed laws as historical analogues for § 922(g)(8)(C)(i). But the Court was emphatic that

those analogues only served to permit temporary disarmament: "We conclude only this: An individual *found by a court* to pose a credible threat to the physical safety of another may be *temporarily* disarmed consistent with the Second Amendment." *Rahimi*, 602 U.S. at 702 (emphasis added).

Contrary to the Ninth Circuit's view, the *temporary* disarmament of persons under the surety and going armed laws—or § 922(g)(8)(C)(i)—is not "roughly comparable" to § 922(g)(9)'s permanent, lifetime firearm ban. *Martinez*, 169 F.4th at 1155. Even if § 922(g)(9)'s prohibition is temporary "in at least some cases," *id.*,[3] at most it shows that § 922(g)(9) is not facially unconstitutional. It does not establish that § 922(g)(9)'s lifetime ban is constitutional in all its applications.

Unlike the surety and going armed laws, and § 922(g)(8)(C)(i) too, § 922(g)(9) does not require "that an individual [be] *found by a court* to pose a credible threat to the physical safety of another" before imposing the lifetime ban. *Rahimi*, 602 U.S. at 702 (emphasis added); see also *id.* at 699 ("Section 922(g)(8) applies only once a court has found that the defendant 'represents a credible threat to the physical safety' of another. § 922(g)(8)(C)(i). That matches the surety and

---

[3] The Ninth Circuit alluded to the availability of expungement, pardons, and restoration of civil rights, as well as the five-year limitation for some misdemeanants whose offenses involved a current or recent former dating partner, a 2022 addition to the statute. *See* 18 U.S.C. § 921(a)(33)(B)(ii), (C). As explained *infra*, discretionary restoration mechanisms are irrelevant as to whether a fundamental right can be abrogated in the first place. *See* Section III. Moreover, many jurisdictions, including California, do not allow for restoration of firearm rights even upon expungement. *See* Cal. Penal Code §§ 1203.4(a)(2), 1203.4a(c)(2).

going armed laws, which involved judicial determinations of whether a particular defendant likely would threaten or had threatened another with a weapon.").

True, § 922(g)(9) "offers procedural protections" associated with securing misdemeanor convictions. *Martinez*, 169 F.4th at 1154. But those protections do not include a finding, by either the judge or the jury, that the defendant poses a lifetime risk of danger to others. Rather, § 922(g)(9) so *assumes* based on the fact and nature of a misdemeanor conviction.

In short, § 922(g)(9) differs dramatically in effect and operation from § 922(g)(8) and its historical analogues. The Ninth Circuit's holding to the contrary flouts *Rahimi*.

2. The Ninth Circuit's alternative holding fares no better. The court upheld § 922(g)(9) and disallowed as-applied challenges by deferring to Congress's designation of domestic-violence misdemeanants (except those described in § 921(a)(33)(C)) as forever dangerous. This Court, however, emphatically rejected judicial deference to legislative judgment as incompatible with the Second Amendment. *New York State Rifle & Pistol Ass'n, Inc.* v. *Bruen*, 597 U.S. 1, 26 (2022).

Instead, the government must meet its "considerable" burden under the Second Amendment by showing that § 922(g)(9) is consistent with the Nation's historical tradition of firearm regulation. *United States* v. *Hemani*, 608 U.S. 772, 781 (2026). Here, as in *Hemani*, the problem "is simply that the historical evidence the government present[ed] does not support the categorical restriction it urge[d]." *Id.* at 791 n.6 (sustaining as-applied challenge to 18 U.S.C. § 922(g)(3) by casual user of marijuana).

Furthermore, "affording the government that kind of 'broad power to designate any group as dangerous and

thereby disqualify its members from having a gun' would risk allowing it to 'quickly swallow' the Second Amendment." *Id.* at 793–94 (quoting *Kanter* v. *Barr*, 919 F.3d 437, 465 (7th Cir. 2019) (Barrett, J., dissenting)). This statute is a perfect example. Contrary to the Ninth Circuit's view, § 922(g)(9) does not reach only (or even mainly) serious, violent conduct, which might justify a lifelong presumption of dangerousness. Instead, the statute extends even to offensive touching and other non-violent conduct, and to assaults committed recklessly. See *Voisine* v. *United States*, 579 U.S. 686, 692 (2016); *Castleman*, 572 U.S. at 162–63, 168.

This Court has recognized that offensive physical touching is synonymous with common law battery, which was classified as a misdemeanor at the time of the founding and continues to be so treated today. *Johnson* v. *United States*, 559 U.S. 133, 141 (2010) (citing 4 Blackstone 216–218 (1769); see also 1 LaFave & Scott, supra, § 2.1(b), at 90; ALI, Model Penal Code § 211.1, Comment, p. 175 (1980)). But the government fails to offer a single example of any misdemeanor criminal offense at the time of the founding (or any relevant period thereafter) that triggered a permanent, lifetime disability. Disarming persons for life based on misdemeanor-level conduct, and without accompanying judicial findings that the individual poses a continuing threat of violence, is plainly inconsistent with our Nation's historical tradition of firearm regulation.

At a minimum, § 922(g)(9) extends into "constitutionally problematic territory." *Voisine*, 579 U.S. at 714 (Thomas and Sotomayor, JJ., dissenting). Mr. Ryno and Mr. Padgett and other defendants deserve at least the opportunity to demonstrate that the statute is not constitutional as applied to them.

B. The regulatory landscape confirms that § 922(g)(9) is unconstitutional at least in some circumstances.

The states, which bear the responsibility of policing domestic violence, have overwhelmingly rejected the premise that domestic violence misdemeanants are forever dangerous. The majority of jurisdictions—thirty-two states and the District of Columbia—do not impose lifetime disarmament for domestic violence misdemeanants.

Fifteen jurisdictions impose no firearms disability for domestic violence misdemeanants at all.[4] And eighteen impose firearms bans that are temporary.

Of the eighteen jurisdictions, two (Arizona and Colorado) impose bans that are functionally similar to § 922(g)(8).[5] Thirteen states constrain the firearms prohibition to periods ranging from one to ten years that run from conviction, release from confinement, or completion of a sentence.[6] Finally, three states set fixed

---

[4] These jurisdictions are Alaska, Arkansas, Florida, Georgia, Idaho, Kentucky, Mississippi, Missouri, Montana, New Hampshire, North Carolina, Ohio, Oklahoma, Wisconsin, and Wyoming.

[5] Arizona disarms a domestic violence misdemeanant only while he is "serving a term of probation pursuant to a conviction for a domestic violence offense." Ariz. Rev. Stat. Ann. § 13-3101(A)(7)(d). Colorado's ban lasts "until the defendant's sentence is satisfied." Colo. Rev. Stat. § 18-6-801(8)(a)(I)(A).

[6] *See* S.D. Codified Laws § 22-14-15.2 (one year); Va. Code Ann. § 18.2-308.1:8(C) (three years); S.C. Code Ann. § 16-25-30(A), (E)(3) (same); Del. Code Ann. tit. 11 § 1448(d) (five years); D.C. Code § 22-4503(a)(6) (same); Kan. Stat. Ann. § 21-6301(a)(18) (same); Me. Rev. Stat. Ann. tit. 15, § 393(1-B) (same); Tex. Penal

(continued . . .)

terms for most domestic violence misdemeanants and reserve permanent disarmament for a narrow class.[7]

The states' legislation in this area demonstrates that § 922(g)(9)'s lifetime firearms ban is not the consensus, or even the majority, approach to address the risk of harm posed by domestic violence misdemeanants.

The Executive too rejects Congress's "say-so" that domestic violence misdemeanants are forever dangerous. *Hemani*, 608 U.S. at 793. Under the Federal Firearm Rights Restoration Act (FFRR), codified at 18 U.S.C. § 925(c), the Department of Justice now allows domestic violence misdemeanants to seek restoration of their federal firearm rights after ten years, "recogniz[ing] that not all individuals who commit such offenses demonstrate a long-term propensity to continue engaging in the conduct." Application for Relief from Disabilities Imposed by Federal Laws, 91 Fed. Reg. 54054, 54073 (Aug. 20, 2026).

This regulatory landscape belies the Ninth Circuit's conclusion that § 922(g)(9) is categorically constitutional and reinforces the necessity of as-applied challenges. See *Hemani*, 608 U.S. at 792–93 (noting that

---

Code Ann. § 46.04(b) (same); R.I. Gen. Laws § 11-47-5.5(b) (same); N.D. Cent. Code § 62.1-02-01(1)(b) (same); Neb. Rev. Stat. § 28-1206(1)(b) (seven years); Mich. Comp. Laws § 750.224f(5) (eight years); La. Rev. Stat. Ann. § 14:95.10(E) (ten years).

[7] California imposes a ten-year ban for enumerated misdemeanors, and a lifetime ban for misdemeanors involving corporal injury to a spouse or cohabitant. Cal. Penal Code § 29805(a)(1), (b). Connecticut imposes a twenty-year ban for enumerated misdemeanors, and lifetime bans for family-violence crimes. Conn. Gen. Stat. § 53a-217(a)(1)(C)-(D). Minnesota imposes a three-year ban for domestic assault but separately adopts the federal disqualification under § 922(g)(9). Minn. Stat. § 624.713.

recent regulatory actions undermined the government's claim that marijuana users are "categorically violent and dangerous without any further showing").

III. This case is an ideal vehicle to resolve the split.

This petition presents an excellent opportunity to resolve the split. The relevant facts are simple and undisputed, the issue was pressed and passed upon at each level below, and the Ninth Circuit's decision squarely implicates the circuit split. Furthermore, the Ninth Circuit denied Mr. Padgett and Mr. Ryno's rehearing petition, making clear that it will not budge from its position that § 922(g)(9) is not susceptible to as-applied Second Amendment challenges.

The Department of Justice's recent regulations implementing the FFRR do not resolve the circuit split or moot this important and recurring constitutional issue. See 28 C.F.R. Ch. I, Pt. 107. Restoration under the FFRR and constitutional challenges ask distinct questions. Under § 925(c), the Attorney General *may* grant relief if satisfied that the circumstances regarding an applicant's disability, and his record, health, good character, and reputation in the community, establish that he is unlikely to endanger public safety and restoration would comport with the public interest. See 18 U.S.C. § 925(c); 28 C.F.R. § 107.10. An as-applied challenge asks whether Congress may impose the firearms prohibition in the first place.

Executive grace does not suffice to justify the vindication of fundamental rights. See *United States* v. *Stevens*, 559 U.S. 460, 480 (2010) ("We would not uphold an unconstitutional statute merely because the Government promised to use it responsibly."). This Court has long emphasized that "[r]ights under our system of law and procedure do not rest in the discretionary

authority of any officer." *Ex parte Parker*, 131 U.S. 221, 225 (1889). The Second Amendment, like all other guarantors of fundamental rights, "protects against the Government; it does not leave us at the mercy of *noblesse oblige*." *Stevens*, 559 U.S. at 480.

Until this Court resolves this issue, the lower courts will continue to apply different rules for the same constitutional right, resulting in a patchwork of Second Amendment protections dependent not on uniform principle, but geographic location. This Court should grant review and resolve this important, recurring, and ripe issue of constitutional law, and ensure that the viability of as-applied challenges to § 922(g)(9) is consistent across all circuits.

CONCLUSION

The petition should be granted.

Respectfully submitted,

DANIELLE HAMILTON
THE CARTER G. PHILLIPS/
SIDLEY AUSTIN LLP
SUPREME COURT CLINIC
NORTHWESTERN PRITZKER
SCHOOL OF LAW
375 EAST CHICAGO
AVENUE
CHICAGO, IL 60611
(312) 503-1486

JEFFREY T. GREEN
Counsel of Record
GREEN LAUERMAN
CHARTERED PLLC
1050 30TH STREET NW
WASHINGTON, D.C. 20007

DANIEL POULSON
FEDERAL PUBLIC
DEFENDER FOR THE
DISTRICT OF ALASKA
188 W. NORTHERN LIGHTS
BLVD., SUITE 700
ANCHORAGE, AK 99503

Counsel for Petitioners

November 20, 2026