

The Second Amendment at the Supreme Court: Challenges to Federal Gun Laws

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Ratified in 1791, 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.” For over two hundred years, the Supreme Court remained largely silent on the Second Amendment. In a series of relatively recent decisions, however, the Court has provided guidance on the substance and scope of this constitutional provision.

In 2008, in *District of Columbia v. Heller*, the Supreme Court [held](#) that the Second Amendment protects an individual right to possess firearms for certain purposes, including at least self-defense in the home. Two years later, in *McDonald v. City of Chicago*, the Court [determined](#) that the right to bear arms applies not only to laws imposed by the federal government, but also to laws enacted at the state and local levels. In 2016, in *Caetano v. Massachusetts*, the Court in a brief opinion [clarified](#) that “arms” within the meaning of the Second Amendment encompasses modern arms, including stun guns, that did not exist at the time of the founding.

In 2022, the Supreme Court in *New York State Rifle & Pistol Association v. Bruen* resolved two of the questions left open by the preceding decisions:

- Does the right to bear arms extend beyond the home?
- and*
- How are courts to properly analyze purported infringements of this right?

In *Bruen*, the Court [held](#) that the protections of the Second Amendment extend beyond the home generally to places of confrontation. The *Bruen* Court also announced the [standard](#) to be used in assessing Second Amendment challenges to firearm laws: When the plain text of the Second Amendment covers the regulated conduct, the Constitution “presumptively protects” it. To justify a regulation of that conduct, the government must demonstrate that a challenged law “is consistent with the Nation’s historical tradition of firearm regulation.”

Following *Bruen*, plaintiffs filed a number of legal actions contesting various federal and state firearm laws. Some of these cases involved challenges to long-standing provisions of the federal Gun Control Act prohibiting certain categories of individuals from possessing firearms:

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- In *United States v. Rahimi*, the U.S. Court of Appeals for the Fifth Circuit [invalidated](#) 18 U.S.C. § 922(g)(8), which prohibits individuals subject to certain domestic violence restraining orders from possessing firearms, as facially unconstitutional.
- In *United States v. Daniels*, the Fifth Circuit [held](#) that [Section 922\(g\)\(3\)](#), which prohibits any person “who is an unlawful user of or addicted to any controlled substance” from possessing firearms, was unconstitutional as applied to the defendant.
- In *Range v. Attorney General*, the Third Circuit [concluded](#) that 18 U.S.C. § 922(g)(1), which makes it unlawful for felons to possess firearms, was unconstitutional as applied to a defendant whose past felony was a nonviolent fraud offense.

On June 21, 2024, the Supreme Court reversed the Fifth Circuit’s ruling in *Rahimi*, [holding](#) that Section 922(g)(8) is not facially unconstitutional under the Second Amendment. The Court [reasoned](#) that sufficient historical support existed for the principle that “[w]hen an individual poses a clear threat of physical violence to another, the threatening individual may be disarmed” temporarily.

The Supreme Court granted the petitions in *Daniels* and *Range*, vacated the corresponding circuit court opinions, and [remanded](#) the two cases back to the circuit courts for further consideration in light of *Rahimi*. On remand, the Fifth Circuit in *Daniels*, and the Third Circuit in *Range*, again concluded that Section 922(g)(3) and Section 922(g)(1), respectively, are unconstitutional as applied to the respective defendants.

This Sidebar is designed to serve as an ongoing, periodically updated guide to selected Second Amendment cases at the Supreme Court involving federal statutes and regulations. The Sidebar does not discuss cases that challenge federal firearms statutes or regulations on some other legal basis, and it also excludes any petitions that challenge state laws.

As of this writing, the Court has not granted any new Second Amendment cases for review. What follows is a list of (1) pending petitions for review involving the Second Amendment that the federal government has filed with the Court (which [may](#) be more likely to be granted relative to petitions filed by other parties); and (2) pending petitions for review, involving Second Amendment challenges to federal statutes or regulations, that have been filed with the Court by non-federal-government parties. While these petitions may press other grounds for appeal, they are presented here because they contain a Second Amendment challenge.

Cases are listed with identifying information and brief descriptions. The Sidebar concludes with considerations for Congress.

Pending Petitions Filed by the Federal Government

The United States has filed a petition for review in *Daniels*, along with four other petitions that present the same [question](#): “Whether [18 U.S.C. § 922\(g\)\(3\)](#), the federal statute that prohibits the possession of firearms by a person who ‘is an unlawful user of or addicted to any controlled substance,’ violates the Second Amendment” as applied. The five petitions raising this question are:

- [United States v. Hemani](#), No. 24-1234.
 - [United States v. Cooper](#), No. 24-1247.
 - [United States v. Daniels](#), No. 24-1248.
 - [United States v. Sam](#), No. 24-1249.
 - [United States v. Baxter](#), No. 24-1328.
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Pending Petitions Filed by Other Parties Involving Federal Statutes

Defendants in two separate cases have also asked the Supreme Court to hear Second Amendment challenges to 18 U.S.C. § 922(g)(3):

- *Smith v. United States*, No. 24-6936.
- *Clark v. United States*, No. 24-7188.

A number of parties also have mounted facial or as-applied challenges to the “felon-in-possession” statute, 18 U.S.C. § 922(g)(1). A primary focus of these cases is whether, under *Bruen*, individuals convicted of nonviolent felonies may be prohibited from possessing firearms under Section 922(g)(1):

- *Vincent v. Bondi*, No. 24-1155.
- *Wheeler v. United States*, No. 24-6996.
- *Quailes v. United States*, No. 24-7033.
- *Underwood v. United States*, No. 24-7051.
- *Freeman v. United States*, No. 24-7101.
- *Martinez v. United States*, No. 24-7104.
- *York v. United States*, No. 24-7244.
- *Mason v. United States*, No. 24-7286.
- *Patino v. United States*, No. 24-7324.
- *Garcia v. United States*, No. 24-7339.
- *Johnson v. United States*, No. 24-7347.
- *Bacon v. United States*, No. 24-7348.
- *Matlock v. United States*, No. 24-7398.
- *Mayfield v. United States*, No. 24-7400.
- *Rollerson v. United States*, No. 24-7402.
- *Jalomo v. United States*, No. 24-7417.
- *Bradley v. United States*, No. 24-7419.
- *Sutherland v. United States*, No. 24-7425.
- *Whitehead v. United States*, No. 24-7480.
- *Judd v. United States*, No. 24-7501.
- *Alvarez v. United States*, No. 24-7507.
- *Medrano v. United States*, No. 24-7508.
- *Ford v. United States*, No. 24-7526.

One petition advances a related, threshold [question](#) about whether the right to bear arms “applies only to ‘law-abiding citizens’ who have no prior convictions”:

- *Bever v. United States*, No. 24-7369.

A defendant filed a petition challenging the constitutionality of [18 U.S.C. § 922\(n\)](#), which makes it “unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to . . . receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce”:

- [Quiroz v. United States](#), No. 24-7342.

A pair of petitions raise challenges to the age restrictions under [18 U.S.C. § 922\(b\)\(1\)](#), which forbids licensed dealers and others from selling or delivering “any firearm or ammunition” to anyone under eighteen years of age or, “if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle,” to anyone under twenty-one years of age:

- [Paris v. Lara](#), No. 24-1329.
- [McCoy v. Bureau of Alcohol, Tobacco, Firearms, and Explosives](#), No. 25-24.

Finally, a defendant has filed a petition related to the National Firearms Act presenting the [question](#) “Whether the Second Amendment secures the right to possess unregistered short-barreled rifles that are in common use for lawful purposes”:

- [Rush v. United States](#), No. 24-1259.

Considerations for Congress

Any of these Second Amendment cases that the Supreme Court accepts for review could inform and impact the statutory framework Congress has enacted to regulate firearms. If the Court does grant review in any of these cases, the Court may further clarify the status of existing federal firearms laws and the permissible bounds of any future firearms legislation. If the Supreme Court does not ultimately review any of these cases, developments in the courts of appeals may nonetheless offer further guidance for Congress on the constitutional standard established in *Bruen* and applied in *Rahimi*.

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