

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 scope and meaning of the Second Amendment. In a series of relatively recent decisions, however, the Court has provided guidance on the substance of this constitutional provision.

This Sidebar is designed to serve as a guide to selected Second Amendment cases at the Supreme Court involving federal statutes and regulations. It summarizes modern Supreme Court Second Amendment cases. As of this writing, the Court has granted two new Second Amendment cases for review that raise the same Second Amendment question. This Sidebar provides an overview of these two cases and a case that the Department of Justice (DOJ) has asked the Court to review. (In general, petitions for review filed by DOJ [may](#) be more likely to be granted relative to petitions filed by other parties, which are not included in this Sidebar.) The Sidebar concludes with considerations for Congress.

Modern Supreme Court Jurisprudence

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. In the course of the opinion, the Court [suggested](#) that the right to keep and bear arms extends to weapons “in common use” for lawful purposes, but not to “dangerous and unusual weapons.” In 2010, 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* [held](#) that the protections of the Second Amendment extend beyond the home generally to places of confrontation. The *Bruen* Court also announced the [standard](#) courts should use in assessing Second Amendment challenges to firearm laws: When the plain text of the Second Amendment covers the regulated conduct, the

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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 have filed legal actions contesting various federal and state firearm laws. Some of these cases involved challenges to federal laws prohibiting certain categories of individuals from possessing firearms. In one such case, *United States v. Rahimi*, a defendant contended that 18 U.S.C. § 922(g)(8)—which prohibits individuals subject to certain domestic violence restraining orders from possessing firearms—is facially unconstitutional. (A “facial” challenge argues that a statute is unconstitutional in all applications, in contrast with an “as applied” challenge, which argues that a statute is unconstitutional in specific circumstances.) In 2024, the Supreme Court rejected this argument, reasoning 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.

In *United States v. Hemani*, the Supreme Court rejected the federal government’s argument that another prohibition, 18 U.S.C. § 922(g)(3)—which prohibits any person “who is an unlawful user of or addicted to any controlled substance” from possessing firearms—“automatically disarms anyone who regularly uses any amount of any controlled substance for anything other than its ‘prescribed purpose,’” regardless of individualized circumstances, including “what controlled substance an individual uses, in what amounts he does so, or whether his drug use has ever made him a danger to himself or others.” The Court determined that the government presented insufficient historical support for this interpretation of § 922(g)(3), ruling that the prosecution of the defendant based solely on his use of marijuana “a few times a week”—without proof of relevant individual circumstances—violated the Second Amendment.

In *Wolford v. Lopez*, the Court held that a Hawaii law violated the Second Amendment; that law presumptively prohibited the carry of handguns by licensed concealed carry permit holders on private property open to the public without the property owner’s express permission to the handgun carrier. The Court determined that the historical analogues offered by Hawaii were insufficiently comparable to the challenged law, as the analogues principally addressed property used for hunting, while the law covered other settings used for other purposes, such as retail establishments visited for commercial reasons.

Petitions Accepted by the Supreme Court

The Supreme Court has granted certiorari in two Second Amendment cases, *Viramontes v. Cook County* and *Grant v. Higgins*. As the cases effectively pose the same constitutional question, the Court consolidated the cases. The Court agreed to address the following question, as framed in the *Viramontes* petition: “Whether the Second and Fourteenth Amendments guarantee the right to possess AR-15 platform and similar semiautomatic rifles.”

- *Viramontes v. Cook County*, No. 25-238. This case concerns the constitutionality of § 54-212(a) of the Cook County, IL, code, which generally prohibits the possession, acquisition, and transfer of any “assault weapon,” defined by the county to include a semiautomatic rifle. The Supreme Court has described a “semiautomatic” weapon as one “that fires only one shot with each pull of the trigger and which requires no manual manipulation by the operator to place another round in the chamber after each round is fired.”

In assessing the constitutionality of the ordinance, a federal district court ruled for the county. The court cited circuit precedent that, at step one of then *Bruen* inquiry, deemed certain assault weapons to be more suitable for military usage than for self-defense, and on this basis concluded that these weapons were not protected “arms” within the meaning of the Second Amendment. The court also observed that according to circuit precedent,

under step two of the *Bruen* framework, “militaristic” weapons were not historically in “common use” for purposes of self-defense and that a historical tradition existed to regulate “especially dangerous weapons of the time.” The court [rejected](#) the challengers’ contention that this precedent did not apply to AR-15s, finding that any difference in firing rates between AR-15s and the M16 machine gun did not make a constitutional difference. A panel of the U.S. Court of Appeals for the Seventh Circuit [affirmed](#), holding that it was bound by circuit precedent that “upheld the constitutionality of this very ordinance, at least preliminarily,” and that the challengers did not “build an adequate record” to change that result.

The challengers filed a petition for review with the Supreme Court, arguing, among other things, that the Seventh Circuit’s determinations conflict with *Heller* and *Bruen* in that semiautomatic rifles are [protected](#) “arms” under *Heller* even if they have military utility, and that, as to *Bruen*, a historical tradition [exists](#) to prohibit “dangerous and unusual” weapons, which do not include AR-15s. The Supreme Court [granted](#) certiorari on June 30, 2026.

- *Grant v. Higgins*, No. 25-566. This case involves Connecticut statutory provisions, §§ [53-202b](#) and [53-202c](#), which collectively and generally prohibit the sale, transfer, importation, or possession of an “assault weapon,” [defined](#) by the state to include some semiautomatic weapons. A federal district court rejected the challengers’ motion to preliminarily enjoin enforcement of the statutes, [reasoning](#) that, as to *Heller*, “there is no evidence that assault weapons are commonly used” for self-defense, and that, as to *Bruen*, the statutory regime is consistent with a historical tradition of regulating “firearms that possess new and dangerous characteristics that make them susceptible to abuse by non-law abiding citizens wielding them for unlawful purposes.”

A panel of the U.S. Court of Appeals for the Second Circuit affirmed. Beginning with *Bruen*’s first step, the court “[assume\[d\]](#) without deciding that the desired firearms . . . are bearable arms within the meaning of the Second Amendment.” Turning to step two of the *Bruen* inquiry, the court characterized the Connecticut laws as “one more chapter in the historical tradition of limiting the ability to ‘keep and carry’ dangerous and unusual weapons.” The court [explained](#) that the statutes target weapons that “have grave capacity for inflicting harm disproportionate to the Second Amendment’s ‘core lawful purpose of self-defense,’” [adding](#) that the AR-15, in particular, “has features,” such as its size and weight, “that actually limit its usefulness for self-defense.” A concurring opinion, authored or joined by each member of the three-judge panel, [defended](#) the majority opinion’s interpretation of *Heller*’s “dangerous and unusual” language to mean “unusually dangerous”—not “dangerous *and* unusual” as urged by the challengers—in light of historical sources. This limitation identified in *Heller* focuses on the “danger to the public, not statistical commonality of the threatening weapon,” the concurrence [continued](#).

The challengers petitioned the Supreme Court for review, [arguing](#) that the AR-15 is neither dangerous nor unusual because this style of rifle is “owned by millions of Americans” and is used “overwhelmingly for lawful purposes.” Their popularity, the challengers argue, [provides](#) “excellent evidence” that the American people do not view the AR-15 as dangerous or unusual. As with *Viramontes*, the Court [granted](#) the challengers’ petition on June 30, 2026.

Pending Petition Filed by the Federal Government

- *United States v. Hembree*, No. 25-1219. DOJ has filed a petition seeking review of a decision by a panel of the U.S. Court of Appeals for the Fifth Circuit. Federal appeals courts [disagree](#) as to whether the federal ban on individuals convicted of a felony from possessing firearms—located in [18 U.S.C. § 922\(g\)\(1\)](#) and commonly known as the “felon-in-possession” prohibition—violates the [Second Amendment](#). Most [circuits](#) hold that felons are categorically barred from possessing firearms. A minority of [circuits](#), including the [Fifth](#) Circuit, have taken a case-by-case approach to evaluating the constitutional validity of § 922(g)(1), [upholding](#) § 922(g)(1) in cases in which the defendant was convicted of an offense that is inherently violent or associated with violence. By contrast, the court has held that the statute cannot be constitutionally applied where the predicate felony is nonviolent, such as the [possession of methamphetamine](#), as in *Hembree*, or [failure to pay child support](#).

In its petition, DOJ has [asked](#) the Supreme Court to “grant the petition, vacate the court of appeals’ judgment, and remand the case for further consideration in light of *Hemani*.” Following *Hemani*, however, the Court [did not dispose](#) of the petition as DOJ had requested. Instead, the Court has [allowed](#) the defendant to respond to DOJ’s petition, suggesting that the Court has some interest in considering the petition notwithstanding its decision in *Hemani*. The Supreme Court [cleared](#) its merits docket for the October 2025 Term and is [in recess](#) as of this writing. Accordingly, the Court may not formally act on the *Hembree* petition until it sits for its [September “long conference,”](#) which precedes the official beginning of the October Term 2026 and at which the Justices discuss pending petitions that have accumulated over the intervening summer months.

Considerations for Congress

A Supreme Court decision on the two granted cases, and on any opinions on other petitions raising Second Amendment questions that the Court accepts for review, could inform and impact the statutory framework Congress has enacted to regulate firearms. These opinions may not only clarify the status of existing federal firearms laws but also help delineate permissible bounds of any future firearms legislation. Parallel developments in the courts of appeals may also offer further guidance for Congress on the constitutional standard established in *Bruen* and applied in *Rahimi*, *Hemani*, and *Wolford*.

Author Information

Dave S. Sidhu
Legislative Attorney

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