
No. 26-179

IN THE
SUPREME COURT OF THE UNITED STATES
October Term 2026

TERRY BRANDERS,
Petitioner,

v.

UNITED STATES,
Respondent.

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

BRIEF FOR PETITIONER

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QUESTIONS PRESENTED

- I. Whether, under the Second Amendment, which protects an individual right and requires the Government to justify burdens on that right through the Nation's historical tradition, a person with a felony conviction may bring an as-applied challenge to 18 U.S.C. § 922(g)(1).
- II. Whether the Second Amendment permits the Government to disarm Terry Branders for life based on a single felony child-neglect conviction entered more than twenty years ago, for which she served no prison time and after which she incurred no other felony conviction.

STATEMENT OF THE CASE

I. STATEMENT OF FACTS

Terry Branders: A Decades-Old Conviction and a Handgun Kept for Protection. In July 2000, Terry Branders, a retired factory worker, began operating a daycare from her home in Alexandria, Virginia, for the children of former colleagues. R. at 2. Branders did not have a daycare license and at times cared for ten or more children. R. at 2. Her eighteen-year-old son, Nelson, assisted by picking up and dropping off the children in a fifteen-passenger van. R. at 2.

One morning, after sleeping only a few hours, Nelson picked up twelve children and drove them to Branders' home. R. at 2. He brought all but eleven-month-old Kenneth Drew inside before driving away and returning to his apartment. R. at 2. Nelson later stated that he believed he had brought every child inside but acknowledged that he was tired and could have missed Kenneth. R. at 2. Because Kenneth ordinarily slept through the pickup routine and Nelson usually placed him directly in a crib, Branders did not realize he was missing until approximately two hours later. R. at 2. She spent more than an hour trying to reach Nelson and Kenneth's mother before calling 911. R. at 2. By the time police located Kenneth in the van, he had suffered severe heat-related injuries and later died. R. at 2–3.

Branders and Nelson were both convicted of felony child neglect. R. at 2–3. The applicable statute was Va. Code § 18.2-371.1. Branders was also convicted of the misdemeanor offense of operating an unlicensed daycare. R. at 3. On March 5, 2001, she received a two-year suspended sentence and was placed on probation. R. at 3.

More Than Two Decades Without Another Felony Conviction. In 2020, Branders moved to Appleton, Newcoastland, seeking a new start. R. at 3. She became active in local charities, volunteering at a food bank and stocking school supplies for children in need. R. at 3. In the years

following her child-neglect conviction, her only other encounter with the criminal law was a misdemeanor reckless-driving conviction after she was caught driving 83 miles per hour in a 65-mile-per-hour zone. R. at 3. Her license was suspended for six months. R. at 3.

Nelson later moved into Branders' home to assist her as she aged. R. at 3. He insisted on living in the basement, coming and going as he pleased, and keeping Branders out of that part of the house. R. at 3. Nelson blamed Branders for problems in his life and frequently had angry outbursts. R. at 3. Branders also suspected that he might use or sell drugs and found some of the people he brought around the home scary. R. at 3.

A Handgun Kept Locked in the Home for Protection. Branders became friends with Becky Haskill, another volunteer at the food bank. R. at 3. After the two discussed their family problems, Haskill suggested that Branders obtain a gun for protection. R. at 3. Branders initially expressed hesitation, but Haskill offered her one of the handguns that had belonged to Haskill's late husband. R. at 3. Branders accepted the handgun and kept it in a locked drawer in her living room. R. at 3.

In June 2024, DEA agents began investigating Nelson after receiving a tip about his activities. R. at 3–4. The agents surveilled Branders' home and discovered both Nelson's and Branders' felony convictions through a database search. R. at 3–4. After Nelson left the house one day, the agents approached Branders and asked to search the home. R. at 4. According to Agent Sue Stern, Branders was "quite cooperative," told the agents that Nelson lived in the basement, and permitted them to search the house. R. at 4.

The agents found no evidence of drug activity. R. at 4. They did, however, find Branders' handgun. R. at 4. Branders told the agents that the gun had been given to her and that she kept the firearm and its ammunition locked in separate drawers. R. at 4. Agent Stern testified that Branders appeared "surprised" when the agents arrested her for possessing the firearm. R. at 4.

II. PROCEDURAL HISTORY

On July 3, 2024, the United States charged Branders with possessing a firearm as a felon in violation of 18 U.S.C. § 922(g)(1). R. at 4. Branders moved to dismiss, arguing that the statute violated the Second Amendment as applied to her. R. at 4. The district court agreed and dismissed the indictment. R. at 1, 7.

The Government appealed. R. at 8. The Fourteenth Circuit reversed, holding that Branders' firearm possession fell within the Second Amendment's text but that § 922(g)(1) did not require felony-by-felony constitutional review. R. at 9–10. It therefore vacated the dismissal and remanded. R. at 10. Judge Pinckney dissented, concluding that the historical record did not justify permanently disarming Branders based on her child-neglect conviction. R. at 11.

On remand, Branders entered an *Alford* plea while preserving her challenge to the denial of her motion to dismiss and her as-applied Second Amendment claim. R. at 12. The Fourteenth Circuit held that those arguments were properly preserved but summarily affirmed. R. at 12.

This Court granted certiorari to decide whether defendants may bring as-applied Second Amendment challenges to § 922(g)(1) and, if so, whether the statute is unconstitutional as applied to Branders' decades-old felony child-neglect conviction. R. at 13.

SUMMARY OF THE ARGUMENT

This case presents two related Second Amendment questions concerning the scope of the federal felon-in-possession statute, 18 U.S.C. § 922(g)(1). First, the court of appeals held that defendants with qualifying felony convictions may not challenge the statute as applied to them, even when their conduct falls within the Second Amendment's text. Second, that categorical rule prevented the court from asking whether the Nation's historical tradition actually supports permanently disarming Branders because of her single, decades-old child-neglect conviction. Both

holdings depart from the historical inquiry required by this Court's Second Amendment precedents and risk converting a historically grounded constitutional test into a rule of automatic disqualification.

I.

The Fourteenth Circuit erred by treating § 922(g)(1)'s constitutional applications as sufficient to foreclose as-applied review. Once an individual's conduct falls within the Second Amendment's text, the Constitution presumptively protects that conduct and places the burden on the Government to justify the restriction through the Nation's historical tradition of firearm regulation. Branders' possession satisfies that threshold. She kept a handgun in her home for protection, and the court below expressly agreed that her conduct falls within the Second Amendment's text. R. at 9.

Neither *Heller* nor *Rahimi* eliminates that inquiry merely because § 922(g)(1) concerns persons with felony convictions. *Heller* described felon-possession restrictions as "presumptively lawful," not categorically immune from review. And this Court's modern framework requires courts to determine whether the challenged restriction is consistent with historical tradition. As such, the existence of constitutional applications of § 922(g)(1) does not establish that every application is constitutional.

History likewise does not support using the modern felony label as a substitute for that analysis. Historical restrictions rested on particular reasons for disarmament, including danger, disloyalty, and criminal punishment. As-applied review preserves § 922(g)(1)'s lawful applications while requiring historical justification where the basis for permanent disarmament is disputed. That approach protects both the statute's legitimate reach and the constitutional

requirement that restrictions remain grounded in history. The Fourteenth Circuit therefore erred by ending the inquiry at Branders' status as a felon.

II.

The Government also cannot carry its historical burden as applied to Branders. Historical danger-based restrictions permitted disarmament where an identifiable threat or disqualifying status supplied the reason for it. Historical punishment likewise supports disarmament while criminal punishment remains operative. Neither tradition establishes that one episode of dangerous conduct permanently justifies firearm disqualification decades later.

Branders' circumstances fall outside those historical principles. Her predicate conviction arose from felony child neglect in 2001. R. at 2–3. More than two decades later, she had incurred no other felony conviction. R. at 3. When concerns arose about Nelson's angry outbursts and the people he brought around her home, a friend suggested that Branders obtain a gun for protection. R. at 3. Branders accepted the handgun and kept it locked in her living room. R. at 3. She later told federal agents that the firearm and ammunition were stored in separate locked drawers. R. at 4. The record contains no allegation that she threatened anyone with the gun or otherwise misused it. *See* R. at 3–4.

Nor can the Government establish permanent disarmament merely by pointing to severe historical punishments for other crimes. The historical inquiry requires a meaningful fit between the historical offense and punishment and the modern restriction being defended. Branders was convicted of child neglect, not theft, counterfeiting, or another offense for which courts have identified Founding-era punishments supporting disarmament. The Government must accordingly establish why comparable historical misconduct justified permanent firearm disability.

A broader rule would impose the same lifetime disability on materially different offenders regardless of whether the historical rationale for disarmament remains present. That would make the constitutional inquiry turn on the modern felony label rather than historical tradition.

Section 922(g)(1), as applied here, reaches conduct at the core of the Second Amendment while neither an operative danger nor continuing criminal punishment supplies the historical justification for Branders' disarmament. Because the Government cannot identify a sufficiently analogous historical tradition supporting that continuing disability, § 922(g)(1) violates the Second Amendment as applied to Branders. The judgment of the Fourteenth Circuit should be reversed.

ARGUMENT AND AUTHORITIES

Standard of Review. Both questions presented are reviewed de novo because they concern the constitutional limits the Second Amendment places on § 922(g)(1). Questions of law are generally reviewed de novo. *Monasky v. Taglieri*, 589 U.S. 68, 83 (2020). And when an appellate court applies a constitutional standard to a particular factual record, de novo review of the constitutional question is appropriate. *Cooper Indus., Inc. v. Leatherman Tool Grp., Inc.*, 532 U.S. 424, 436 (2001). Branders preserved her Second Amendment challenge by moving to dismiss the indictment on the ground that § 922(g)(1) is unconstitutional as applied to her, and she expressly reserved that challenge on remand. R. at 4; *see also* R. at 12. This Court accordingly reviews the constitutional questions presented without deference to the courts below.

I. BRANDERS MAY CHALLENGE § 922(G)(1) AS APPLIED BECAUSE THE GOVERNMENT MUST JUSTIFY EACH FIREARM RESTRICTION THROUGH THE NATION’S HISTORICAL TRADITION, AND NO CATEGORICAL EXCEPTION RELIEVES IT OF THAT BURDEN.

The Fourteenth Circuit agreed that Branders’ conduct falls within the Second Amendment yet treated her felony conviction as ending the constitutional inquiry. R. at 9–10. That approach gives felony status a consequence this Court has never assigned to it. *District of Columbia v. Heller* described felon-possession restrictions as “presumptively lawful,” 554 U.S. 570, 626–27 & n.26 (2008), but later decisions made clear that covered conduct is tested against historical tradition in the application before the court. *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 24 (2022); *United States v. Rahimi*, 602 U.S. 680, 691–93, 699–700 (2024); *United States v. Hemani*, 608 U.S. 772, 779–81 (2026). Those cases preserve valid firearm restrictions while requiring the Government to justify the burden it seeks to impose. Because constitutional applications of § 922(g)(1) do not establish the constitutionality of every application, Branders is entitled to have her disarmament tested under that framework.

A. Once Branders’ Conduct Falls Within the Second Amendment, the Government Bears the Burden of Historically Justifying Her Disarmament.

Branders’ home possession triggers the Second Amendment’s historical inquiry. Once an individual’s conduct falls within the Amendment’s text, the Constitution presumptively protects that conduct and places the burden on the Government to establish a sufficient historical tradition for restricting it. *Bruen*, 597 U.S. at 24. That burden prevents modern legislative classifications from defining the scope of an enumerated constitutional right and ensures that courts test firearm restrictions against the Constitution rather than simply accept the boundaries drawn by Congress. *Id.* at 24–26; *Hemani*, 608 U.S. 772, 780–81. As-applied review preserves that distinction while leaving historically justified firearm restrictions fully enforceable. *See Rahimi*, 602 U.S. at 693, 700 (upholding § 922(g)(8) as applied to Rahimi because his disarmament fit the Nation’s

historical tradition of firearm regulation). Branders' claim consequently turns on whether her possession falls within the Second Amendment's text and, if so, whether the Government can historically justify applying § 922(g)(1) to disarm her.

1. *Branders' possession of a handgun in her home for protection falls squarely within the Second Amendment's text.*

The Second Amendment protects the possession of a handgun in the home for self-defense. U.S. Const. amend. II; *Heller*, 554 U.S. at 582–83, 628–30. Branders possessed her handgun for precisely that purpose. After her son moved into her home, exhibited frequent angry outbursts, and associated with people Branders found scary, a friend offered her a handgun for protection. R. at 3. Branders accepted it and kept it locked in a drawer in her living room, with the ammunition separately secured. R. at 3–4. Her conduct falls squarely within the individual right to “keep” arms that *Heller* recognized at its core. 554 U.S. at 582–83, 628–30.

The Fourteenth Circuit correctly recognized that Branders clears that textual threshold. It held that “there is no question” whether the Second Amendment applies to her and that “it most certainly does.” R. at 9. That conclusion accords with this Court's treatment of the Amendment's coverage. *Heller* explained that the Second Amendment right “belongs to all Americans” and *Rahimi* rejected responsibility as a categorical basis for disarmament. 554 U.S. at 581; 602 U.S. at 701–02. Branders' felony conviction as such establishes that § 922(g)(1) reaches her; it does not remove her conduct from the Second Amendment's text. Because that text covers her possession, the Government must proceed to the historical justification required by the Second Amendment. *See Bruen*, 597 U.S. at 24.

2. *Branders is entitled to as-applied review because otherwise valid applications of § 922(g)(1) do not foreclose her challenge.*

As-applied review permits a court to determine whether an otherwise valid statute may constitutionally be enforced in the circumstances before it. The Second Amendment requires that same inquiry once protected conduct is implicated because the Government must justify the restriction it seeks to impose through historical tradition. *Bruen*, 597 U.S. at 24. The existence of constitutional applications of § 922(g)(1) accordingly does not resolve whether its application to *Branders* is constitutional.

Rahimi confirms this distinction. *Rahimi* brought a facial challenge to § 922(g)(8), and this Court rejected it because the statute was constitutional as applied to his circumstances. *Rahimi*, 602 U.S. at 693. *Rahimi* had been judicially found to pose a credible threat to another's physical safety, and historical surety and going-armed laws supported temporarily disarming persons who presented comparable threats. *Id.* at 693–700. This Court upheld § 922(g)(8) without holding that every application of the statute was constitutional. *Id.* at 700–02. Constitutional applications of a statute can thus coexist with circumstances in which its application remains subject to constitutional challenge.

Hemani applied the same principle within § 922(g). This Court considered whether § 922(g)(3) could constitutionally be enforced against *Hemani* and required the Government to justify that application through historical tradition. *Hemani*, 608 U.S. at 779–81. After comparing the historical and modern restrictions in whom they burdened, why they operated, and how they did so, this Court held that the Government had failed to carry its burden as applied to *Hemani*. *Id.* at 783–95. Yet this Court left open other applications of § 922(g)(3), including prosecutions supported by individualized evidence of danger. *Id.* at 794. Reviewing one application neither invalidates the statute as a whole nor determines the constitutionality of another.

Section 922(g)(1) is no exception to that mode of constitutional review. Once the Second Amendment covers the defendant's conduct, the statute's constitutional applications establish only that § 922(g)(1) may validly operate in some circumstances; they do not establish that every application is historically justified. Courts applying *Bruen* to § 922(g)(1) have examined the particular predicate and upheld disarmament where the historical justification fit, while leaving materially different applications open. *See United States v. Diaz*, 116 F.4th 458, 468–71 (5th Cir. 2024), *cert. denied*, 145 S. Ct. 2822 (2025); *United States v. Watson*, 171 F.4th 1012, 1024–25 (7th Cir. 2026).

Branders asks for the same form of constitutional review. She does not challenge § 922(g)(1) on its face, and she does not dispute that the statute has constitutional applications. R. at 9. She challenges its application to her. R. at 4, 9. The existence of otherwise valid applications cannot answer her claim without collapsing the distinction between facial and as-applied constitutionality that *Rahimi* preserved and *Hemani* applied. 602 U.S. at 693, 701–02; 608 U.S. at 779–81, 794–95. That is the inquiry this Court should conduct here.

B. Branders' Prior Conviction Cannot Justify Her Disarmament Unless It Fits the Nation's Historical Tradition.

Branders is subject to § 922(g)(1) because of a single 2001 conviction for felony child neglect under Va. Code § 18.2-371.1, for which she received a two-year suspended sentence and probation. R. at 2–3. That conviction brings her within the statute decades later because the offense was punishable by more than one year of imprisonment. 18 U.S.C. § 922(g)(1); R. at 3. But the constitutional significance of that conviction must come from historical tradition rather than the modern felony label alone. As the Fifth Circuit explained, “[s]imply classifying a crime as a felony does not meet the level of historical rigor required by *Bruen* and its progeny.” *Diaz*, 116 F.4th at 469.

The modern felony category does not itself reflect a fixed historical judgment about who may be disarmed. Modern criminal codes extend the felony label to conduct far beyond the narrower class of felonies recognized at common law. *See Tennessee v. Garner*, 471 U.S. 1, 14 (1985). Allowing that label alone to determine the scope of the Second Amendment would permit modern legislatures to define the boundaries of an enumerated right through their criminal codes. *Bruen* instead requires the Government to connect the challenged restriction to the Nation’s historical tradition. 597 U.S. at 24. The relevant question is what historical principle justified disarmament and whether that principle reaches the application before the Court.

Diaz illustrates that distinction. The Fifth Circuit examined whether Diaz’s predicate offenses fit within a historical tradition sufficient to justify disarmament and ultimately upheld § 922(g)(1) as applied to him. 116 F.4th at 468–70. In doing so, the court emphasized that merely classifying an offense as a felony was insufficient and tied its holding only to Diaz’s particular predicate offense. *Id.* at 469–70. That approach gives full effect to § 922(g)(1) where historical tradition supports disarmament while still requiring the Government to establish the constitutional basis for the application it seeks to enforce.

The Fourteenth Circuit instead treated felony status as the stopping point. Although it recognized that the Second Amendment applies to Branders, it held that courts need not examine “the underpinnings of every felony conviction” and rejected felony-by-felony constitutional review. *R.* at 9–10. That approach makes Congress’s classification conclusive before the Government establishes why history permits the resulting disarmament. Branders’ felony conviction cannot justify her disarmament unless the Government shows that historical tradition authorizes that consequence.

C. *Heller* Did Not Decide Whether Every Felon May Be Permanently Disarmed; Its Description of Felon-Possession Laws as Presumptively Lawful Therefore Does Not Foreclose As-Applied Review.

Heller treated felon-possession restrictions as constitutionally significant, but it did not decide the validity of every application of those restrictions. This Court stated that nothing in its opinion should “cast doubt on longstanding prohibitions on the possession of firearms by felons” and described those restrictions as “presumptively lawful regulatory measures.” *Heller*, 554 U.S. at 626–27 & n.26. At the same time, this Court declined to undertake an “exhaustive historical analysis” of the Second Amendment’s full scope. *Id.* at 626. It instead explained that the historical justifications for the listed exceptions could be addressed “if and when those exceptions come before us.” *Id.* at 635. *Heller* therefore preserved a presumption of lawfulness while leaving the historical boundaries of felon-possession restrictions for later adjudication.

Bruen provided the historical framework that *Heller* left open. Once the Second Amendment’s text covers the conduct, the Government must justify the restriction through historical tradition. *Bruen*, 597 U.S. at 24. *Rahimi* repeated *Heller*’s assurance that prohibitions on firearm possession by felons are “presumptively lawful,” yet still applied the historical-tradition framework to the prohibited-person restriction before it. 602 U.S. at 690–92, 699. Reading *Heller* to foreclose *Branders*’ claim would give its presumptively lawful language greater force than this Court itself has given it.

Hemani confirms that § 922(g)(1) remains unresolved. This Court distinguished § 922(g)(1) from the drug-user prohibition because a felony conviction involves pre-deprivation process and repeated *Heller*’s instruction that its decision should not cast doubt on felon-dispossession laws. *Hemani*, 608 U.S. at 791 n.6. But this Court then expressly declined to decide § 922(g)(1) and

stated that it did not pass on that provision “either way.” *Id.* at 794. A categorical rule barring Branders’ challenge would resolve the very question *Hemani* deliberately left open.

Nor does *Hemani*’s recognition of conviction-based process resolve the historical inquiry. 608 U.S. at 791 n.6. A conviction supplies process for determining whether the defendant committed the predicate offense. *Id.* It does not, however, establish that the historical reason for disarmament reaches that offense or that the resulting firearm disability matches the historical tradition in purpose, scope, and duration. *Hemani* treated process as one feature of the historical comparison and separately examined whom the historical and modern restrictions burdened, why they operated, and how they did so. *Id.* at 783–91, 794–95. Branders’ conviction does not relieve the Government of establishing the historical basis for disarming her.

Heller left the historical boundaries of felon-possession restrictions for later cases, and *Hemani* expressly left § 922(g)(1) unresolved. 554 U.S. at 626, 635; 608 U.S. at 794. Neither decision makes felony status an automatic bar to as-applied review. Branders is therefore entitled to test whether the Government can justify her disarmament under the historical framework that *Bruen* made controlling. 597 U.S. at 24.

D. Historical Tradition Does Not Support Treating Felony Status as a Categorical Bar to Branders’ Challenge.

The historical sources invoked to support categorical disarmament do not establish a single rule that every person convicted of a modern felony may permanently lose the right to keep arms. They reflect distinct traditions responding to different concerns, including threats of violence, political disloyalty, and criminal punishment. *See Rahimi*, 602 U.S. at 693–700; *United States v. Williams*, 113 F.4th 637, 649–57 (6th Cir. 2024). *Rahimi* requires courts to identify the principles underlying those traditions by examining how and why the historical regulations burdened the right. 602 U.S. at 692. Treating the modern felony label as conclusive bypasses that comparison.

History may support rules reaching classes of offenders, but those rules must derive from the historical tradition itself rather than from the breadth of a modern statutory category.

1. *Historical disarmament rested on different justifications that do not extend automatically to every modern felony.*

The categorical cases draw a broad rule from several distinct historical traditions. They rely on restrictions directed at persons thought dangerous or disloyal, the historical authority to regulate classes presenting risks of firearm misuse, and the severe punishments historically imposed for felonies. *See United States v. Jackson*, 110 F.4th 1120, 1125–29 (8th Cir. 2024); *United States v. Hunt*, 123 F.4th 697, 705–08 (4th Cir. 2024), *cert. denied*, 145 S. Ct. 2756 (2025); *United States v. Duarte*, 137 F.4th 743, 755–61 (9th Cir. 2025) (en banc), *cert. denied*, 2026 U.S. LEXIS 520 (U.S. Jan. 20, 2026). Those traditions show that categorical restrictions existed. But *Rahimi* requires the constitutional principle to be drawn from why the historical restriction existed and how it burdened the right. 602 U.S. at 692. The existence of historical categories accordingly does not establish that every category created by a modern legislature carries the same constitutional consequence.

The reasons underlying those historical restrictions differed materially. Surety and going-armed laws responded to conduct indicating a threat to others. Surety laws, in particular, employed procedures directed to assessing and restraining that threat. *Id.* at 693–99. Revolutionary loyalty laws operated categorically, but they targeted groups regarded as threats to the political order because of their allegiance or refusal to swear loyalty. *See Williams*, 113 F.4th at 650–54. These traditions demonstrate historical authority to restrict arms in response to identified concerns. However, they do not establish the modern felony label itself as a historically sufficient reason for permanent disarmament.

Founding-era felony punishment supplies a different historical analogy. Many felonies carried consequences more severe than firearm dispossession, including death and forfeiture. *Duarte*, 137 F.4th at 756–59; *Hunt*, 123 F.4th at 705–06. And *Rahimi* recognized that historically permissible imprisonment could support the lesser burden of temporary disarmament. 602 U.S. at 698–700. But that inference still depended on historical fit. The historical and modern restrictions in *Rahimi* responded to the same underlying concern, a demonstrated threat of physical harm, and the modern restriction lasted only while that danger remained judicially recognized. *Id.* The felony-punishment analogy asks more. It would translate the historical power to punish particular Founding-era felonies with death, forfeiture, or imprisonment into authority to impose a continuing firearm disability for every offense that modern law classifies as a felony.

Several differences make that inference too broad to eliminate as-applied review. Modern felony law reaches conduct far beyond the narrower class of offenses historically treated as felonies, including offenses that were misdemeanors or did not exist at the Founding. *See Diaz*, 116 F.4th at 468–70. Death, forfeiture, and imprisonment were also punishments imposed for the offense itself, while § 922(g)(1) imposes a firearm disability by reason of a prior conviction that may continue long after the sentence has ended. *See Duarte*, 137 F.4th at 756–58; *Hunt*, 123 F.4th at 705–06; 18 U.S.C. § 922(g)(1). And although *Rahimi* considered imprisonment in assessing the permissible burden, it did so within a historical tradition specifically directed at threatening armed conduct. 602 U.S. at 698–700. Historical severity does not itself establish that every modern felony carries the same permanent constitutional consequence.

Duration reinforces that distinction. *Rahimi* relied in part on the fact that § 922(g)(8)’s restriction lasted only while the restraining order remained in effect. 602 U.S. at 699–700. The D.C. Circuit likewise upheld § 922(g)(1) as applied to an offender who remained under criminal

supervision while expressly leaving unresolved whether the same historical justification would support disarmament after the sentence ended. *United States v. Richardson*, No. 24-3151, 2026 U.S. App. LEXIS 25423, at *12–13 (D.C. Cir. Aug. 21, 2026). A categorical rule makes duration irrelevant before the historical inquiry begins. Yet if the historical justification may depend on how long the disability lasts, courts cannot foreclose as-applied review without determining whether the modern restriction extends beyond the historical basis for disarmament.

Those differences in historical purpose, scope, and duration matter under *Bruen*. Reducing traditions addressing danger, disloyalty, and criminal punishment to a general authority to permanently disarm anyone convicted of a sufficiently serious modern offense would make the legislature’s present classification determine the scope of the right. *See Bruen*, 597 U.S. at 24–26. *Rahimi* permits courts to reason from historical principles, but it still requires a meaningful comparison of why and how the historical and modern restrictions burden the right. 602 U.S. at 691–92. Those historical principles may resolve some § 922(g)(1) cases. They do not justify refusing to determine whether they reach the application actually challenged.

2. As-applied review preserves § 922(g)(1)’s constitutional applications and provides a workable framework for enforcement.

The experience of courts permitting as-applied challenges shows that historical review does not make § 922(g)(1) unadministrable. Courts have repeatedly recognized the availability of the challenge while upholding disarmament where the defendant fell within a historically justified class. *See Diaz*, 116 F.4th at 468–71; *Williams*, 113 F.4th at 657–63; *Watson*, 171 F.4th at 1016–17, 1024–25. Those courts identified the historical principle asserted to justify disarmament and determined whether it reached the predicate or offender before them.

Recent decisions confirm that the inquiry can be bounded by historically relevant rules. The First Circuit assumed that an as-applied challenge was available and upheld Levasseur’s

disarmament because he failed to show error in the determination that his predicate offense placed him within a class presenting a historically recognized special danger of firearm misuse. *United States v. Levasseur*, No. 24-1687, 2026 U.S. App. LEXIS 28377, at *10–11, *21–24 (1st Cir. Sept. 16, 2026). The D.C. Circuit likewise upheld § 922(g)(1) while the defendant remained under criminal supervision yet expressly left open whether the same justification would support disarmament after his sentence ended. *Richardson*, 2026 U.S. App. LEXIS 25423, at *12–13. These decisions show that courts can derive rules from historical tradition and resolve challenges by applying those rules to constitutionally relevant facts.

As-applied review also permits a different result when the historical justification does not fit. In *United States v. Cockerham*, the Fifth Circuit held § 922(g)(1) unconstitutional as applied to a predicate conviction for failure to pay child support because, once Cockerham had satisfied that obligation, “there was no historical justification to disarm him at that moment—never mind for the rest of his life.” 162 F.4th 500, 507 (5th Cir. 2025). Read together, these cases demonstrate that recognizing the challenge simply requires the Government to historically justify the application it seeks to enforce, without weakening § 922(g)(1)’s valid applications.

Administrative convenience cannot replace that constitutional inquiry. *Bruen* rejected judicial interest balancing and made historical tradition the measure of permissible firearm regulation. 597 U.S. at 17–19, 24–25. Historical principles may themselves support categorical rules, and those rules may resolve many cases without extensive individualized litigation. *See Williams*, 113 F.4th at 659–63. But courts cannot adopt a categorical rule merely because it is easier to administer than the historical inquiry the Second Amendment requires. As such, recognizing Branders’ challenge leaves § 922(g)(1)’s historically justified applications intact while ensuring that the statute’s constitutional reach remains bounded by historical tradition.

II. SECTION 922(G)(1) VIOLATES THE SECOND AMENDMENT AS APPLIED TO BRANDERS BECAUSE HISTORY DOES NOT SUPPORT PERMANENTLY DISARMING HER DECADES AFTER HER SINGLE CHILD-NEGLECT CONVICTION.

The Government's burden is not satisfied by showing that history permitted the disarmament of some offenders. *Rahimi* requires a relevant historical analogue measured by why and how the restriction burdened the right, 602 U.S. at 691–92, and *Hemani* confirms that the comparison must fit the particular class and restriction the Government seeks to defend. 608 U.S. at 783–91. That requirement matters because a rule of automatic lifetime disarmament would collapse materially different offenders into the same constitutional category and allow the modern felony label to do the work that historical tradition must perform. The relevant traditions here are narrower: danger-based restrictions operated while an identifiable threat or disqualifying status remained, and punishment-based restrictions operated as part of criminal punishment. Neither supports permanently disarming Branders more than two decades after her single child-neglect conviction, where the firearm possession at issue was a handgun kept locked in her home for protection.

A. The Government Must Identify a Historical Tradition Supporting Branders' Permanent Disarmament, Not Merely a Tradition of Disarming Some Offenders.

Branders' 2001 felony conviction triggers § 922(g)(1), but it does not answer whether the Second Amendment permits the Government to continue disarming her on that basis more than two decades later. The Fourteenth Circuit agreed that Branders' possession of a handgun falls within the Second Amendment's text. *R.* at 9. The burden therefore rests with the Government to show that disarming her is consistent with the Nation's historical tradition of firearm regulation. *Bruen*, 597 U.S. at 17, 24. And because the second question presented assumes that an as-applied challenge is available, the Government must justify § 922(g)(1) as applied to Branders, not merely establish that the statute has constitutional applications to other offenders. *R.* at 13.

Heller and *Hemani* recognize the significance of a felony conviction, but neither treats the conviction itself as conclusive. *Heller* described longstanding prohibitions on firearm possession by felons as “presumptively lawful.” 554 U.S. at 626–27 & n.26. *Rahimi* repeated that understanding. 602 U.S. at 699. And *Hemani* distinguished § 922(g)(1) from § 922(g)(3) because a felony conviction provides “some manner of pre-deprivation process” before Second Amendment rights are lost. 608 U.S. at 791 n.6. But *Hemani* expressly declined to decide § 922(g)(1). *Id.* at 794. Its process distinction does not establish that a conviction, standing alone, supplies sufficient historical justification for permanent disarmament decades after the conviction. *Id.* at 791 n.6.

That justification must come from the Nation’s historical tradition. *Rahimi* directs courts to identify the principles underlying that tradition and determine whether the challenged law is “relevantly similar” to the historical regulations that embodied them. 602 U.S. at 691–92. Although the Government need not produce a “historical twin,” the comparison must remain anchored in the reasons historical laws burdened the right and the manner in which they did so. *Id.* at 692; *Bruen*, 597 U.S. at 29–30. Indeed, *Rahimi* cautions that even a regulation serving a historically permissible purpose may violate the Second Amendment when it burdens the right “to an extent beyond what was done at the founding.” 602 U.S. at 692.

Hemani shows why that comparison cannot be made at too high a level of generality. There, the Government relied on historical restrictions concerning habitual drunkards to defend § 922(g)(3)’s categorical disarmament of unlawful drug users. 608 U.S. at 782–83. This Court compared the historical and modern restrictions in concrete terms, examining whom they burdened, why they operated, and how they did so. *Id.* at 783–91. The analogy failed because the historical laws targeted different people, for different reasons, and operated in different ways. *Id.*

The Government therefore cannot satisfy its burden here by invoking, at a high level of generality, traditions of disarming dangerous persons or severely punishing criminals. It must show that the historical principle drawn from those practices reaches *Branders*.

The historical comparison must also account for how long the firearm restriction lasts. *Rahimi* sustained § 922(g)(8) where the defendant had been judicially found to pose a credible threat and the prohibition operated only while the restraining order remained in effect. 602 U.S. at 698–700. That does not make the precise duration of historical restrictions a constitutional ceiling. But it does make duration part of the historical “how.” *Branders* was sentenced in March 2001 to a two-year suspended sentence and probation. R. at 3. More than twenty-three years later, federal agents found the handgun that produced this prosecution. R. at 4. Section 922(g)(1) continued to disqualify her because of that same conviction. R. at 4.

The Government must justify the continued operation of that disability against *Branders* today. Evidence that history permitted the disarmament of some persons, or severely punished some offenders, does not establish that *Branders* may remain permanently disarmed more than two decades after her conviction. The historical tradition must support both why *Branders* may be disarmed and why that disarmament may persist indefinitely. As the following sections show, neither the historical tradition of disarming dangerous persons nor the tradition of criminal punishment supplies that justification here.

B. Historical Danger-Based Restrictions Do Not Justify Permanently Disarming *Branders* Based on Her Decades-Old Child-Neglect Conviction.

History permitted disarmament to prevent danger, but it did not treat a past episode of dangerous conduct as permanent proof of firearm dangerousness. Historical restrictions tied disarmament to the threat, condition, or status that justified it. Treating one past adjudication as sufficient forever would sever the restriction from the very danger that supplied its historical

justification. Branders' 2001 conviction cannot, by itself, establish that she remained the kind of danger historically subject to disarmament when she possessed a firearm more than two decades later.

1. *Historical danger-based restrictions were tied to an ongoing threat or status that justified disarmament.*

The historical tradition recognized in *Rahimi* permits disarmament to prevent threats to physical safety. But that tradition tied disarmament to the danger that justified it. *Rahimi* held that “[w]hen an individual poses a clear threat of physical violence to another, the threatening individual may be disarmed.” 602 U.S. at 698. Section 922(g)(8)(C)(i), as applied to *Rahimi*, fit that tradition because it operated only after a court found that he “represent[ed] a credible threat to the physical safety” of another and lasted only while the restraining order remained in effect. *Id.* at 698–700. The common thread was that the person presented the danger the restriction sought to prevent.

The manner in which the historical laws operated confirms that connection. Surety laws required a complaint from someone with “reasonable cause to fear” that the accused would cause harm or breach the peace, followed by evidence before a magistrate and an opportunity for the accused to respond. *Id.* at 696–97. The resulting bonds generally could not last more than six months at a time, and an individual could obtain an exception for a legitimate need to carry in self-defense. *Id.* at 697. Going-armed laws likewise targeted threatening conduct, prohibiting persons from going armed with dangerous or unusual weapons “to terrify” the public and subjecting that conduct to forfeiture and imprisonment. *Id.* at 697–98. Those laws responded to an identified or ongoing threat rather than treating past misconduct as a permanent proxy for future firearm danger.

Historical categorical restrictions do not establish a broader rule. Revolutionary governments disarmed Loyalists and others perceived as threats to the revolutionary cause. *Williams*, 113 F.4th

at 651–54. But *Williams* also identified laws that permitted members of broadly disarmed groups to retain or regain arms once the danger attributed to them had been dispelled, including through loyalty oaths. *Id.* at 651–54. And *Rahimi* recounted the Militia Act of 1662, which authorized seizure of arms from persons judged “dangerous to the Peace of the Kingdome.” 602 U.S. at 694. Those restrictions may show that history permitted categorical regulation in some circumstances. But the categories themselves rested on an operative source of concern, whether danger to the peace or continuing disloyalty. That history does not by itself establish that one episode of dangerous conduct permanently places a person within a disarmable class.

Hemani, while expressly declining to decide § 922(g)(1), further limits how broadly the Government may define the historically dangerous class. There, the Government’s historical analogy failed because the historical laws “targeted different kinds of people, did so for different purposes, and operated in different ways” from § 922(g)(3). *Hemani*, 608 U.S. at 783. Although this Court did not foreclose categorical restrictions on persons thought to present a “special danger of misuse,” the historical evidence still had to support the category the Government sought to disarm. *Id.* at 791 n.6. And this Court cautioned against affording the Government a “broad power to designate any group as dangerous and thereby disqualify its members from having a gun.” *Id.* at 793–94 (quoting *Kanter v. Barr*, 919 F.3d 437, 465 (7th Cir. 2019) (Barrett, J., dissenting)).

The danger-based tradition permits disarmament when an identifiable threat or status supplies the historical reason for the restriction. It does not support treating a decades-old episode of dangerous conduct as permanent proof that the same danger continues today.

2. *Branders’ decades-old conviction does not show that she remained the kind of firearm danger historically subject to disarmament in 2024.*

Branders’ conviction arose from grave conduct. An eleven-month-old child was left in a van; Branders did not realize he was missing for approximately two hours; and he ultimately died from

heat-related injuries. R. at 2–3. That episode unquestionably involved serious danger. The constitutional question, however, is whether it establishes that Branders remained the kind of threat historically subject to disarmament when she possessed a firearm more than two decades later.

Nothing in the record establishes that continuing danger. Since her 2001 conviction, Branders has incurred no other felony conviction. R. at 3. Her only later encounter with the criminal law was a misdemeanor reckless-driving conviction. R. at 3. Nelson later moved into her home, had frequent angry outbursts, and associated with people Branders found frightening. R. at 3. Branders also suspected that he might use or sell drugs. R. at 3. A friend suggested that Branders obtain a gun for protection and gave her a handgun, which Branders kept in a locked drawer. R. at 3. When federal agents searched the home in 2024, they found no evidence of drug activity, and Branders told them that she kept the handgun and ammunition locked in separate drawers. R. at 4. The record contains no allegation that Branders threatened anyone with the firearm or otherwise misused it. *See* R. at 3–4.

Williams illustrates the difference between a historical dangerousness inquiry and reliance on the felony label alone. The Sixth Circuit required a fact-specific assessment of whether the individual fit the historically disarmable category and permitted consideration of the defendant's broader criminal record. *Williams*, 113 F.4th at 657, 660–61. Williams had two aggravated-robbery convictions, an attempted-murder conviction, and a prior felon-in-possession conviction. *Id.* at 662–63. That record supported the court's conclusion that he remained dangerous and could constitutionally be disarmed. *Id.* Branders' record is materially different, with one decades-old predicate, no subsequent felony, no firearm offense, and no allegation that the handgun she possessed for protection was ever used to threaten another person.

Nor does characterizing Branders' predicate as "dangerous" resolve the temporal question. *Watson* upheld § 922(g)(1) as applied to a defendant convicted of possessing cocaine with intent to distribute, reasoning that drug trafficking qualified as a dangerous felony. 171 F.4th at 1023–25. But *Watson* did not hold that every offense involving a risk of serious harm establishes dangerousness for life. The court expressly reserved whether persons convicted of nondangerous felonies may be disarmed and whether the inquiry extends beyond the predicate conviction to the defendant's broader criminal history. *Id.* at 1024 n.8, 1025. Branders' case presents a different question of whether one episode of dangerous caregiving conduct may itself establish that the offender remains a firearm danger more than two decades later. *Rahimi* requires historical support for that proposition. 602 U.S. at 691–92.

United States v. Debrow makes the point more directly. 183 F.4th 402, 403, 407 (5th Cir. 2026). Its sole predicate was aggravated criminal damage to property, an offense requiring intentional property damage under circumstances in which it was foreseeable that human life might be endangered. *Id.* The Government argued that this risk of harm brought the offense within the historical going-armed tradition. *Id.* at 407. But the Fifth Circuit declined to equate "foreseeability of injury" with dangerousness sufficient to justify being "disarm[ed] for life." *Id.* at 407–08. Because the Government had not established a historical tradition supporting permanent disarmament of persons with analogous criminal histories, the court vacated and remanded. *Id.* at 408–09. Branders' conviction likewise establishes serious conduct affecting human safety. But that fact does not complete the historical inquiry. The Government must still establish why that predicate supports the continuing firearm disability it seeks to impose decades later.

The Government cannot make that showing here. Branders' conviction establishes that her conduct endangered a child in 2000. It does not establish that she remained the kind of danger

historically subject to disarmament when she possessed a firearm in 2024. The danger-based traditions recognized in *Rahimi* tied disarmament to the threat or status that justified it. 602 U.S. at 698–700, 701–02. They do not establish that one adjudication of dangerous conduct supplies a permanent justification for disarmament decades after that danger has passed.

C. Historical Criminal Punishment Does Not Justify Branders’ Permanent Disarmament Decades After Her Conviction.

The Government may alternatively rely on the severe punishments historically imposed for serious crimes. But the historical authority to punish an offense does not, by itself, establish authority to impose a separate firearm disability decades later. The relevant tradition must justify not only punishment for Branders’ offense, but the continued deprivation of her Second Amendment right long after that punishment ended.

1. *Historical criminal punishment does not establish a tradition of permanent firearm disability after a sentence ended.*

History supports disarming offenders while criminal punishment remains in effect. It does not establish a tradition of lifetime disarmament after that punishment ends. In *Richardson*, the D.C. Circuit identified a widespread Founding-era tradition of disarming convicted offenders while they served their sentences. 2026 U.S. App. LEXIS 25423, at *8–11. Imprisonment necessarily prevented offenders from possessing arms, while forfeiture laws deprived offenders of firearms and other property as part of their punishment. *Id.* at *9–10. The same principle extended beyond incarceration. Massachusetts, for example, required participants in Shays’ Rebellion who received conditional pardons to surrender their firearms and submit to monitoring for three years, after which compliant offenders could recover their arms. *Id.* at *10–11. From those laws, *Richardson* identified a historical tradition of temporary disarmament tied to the period of criminal punishment. *Id.* at *11.

The temporal limit was important to the court’s holding. *Richardson* upheld § 922(g)(1) because Richardson possessed a firearm while still serving a term of supervised probation. *Id.* at *12–13. But the court expressly recognized that historical forfeiture laws “did not bar felons from reacquiring arms after completing their sentences,” unlike § 922(g)(1), which on its face imposes a lifetime disability. *Id.* at *12. It confined its holding to firearm possession during criminal supervision and expressly declined to decide whether § 922(g)(1) could continue to disarm Richardson after his sentence ended. *Id.* at *12–13.

Rahimi does not extend the punishment theory beyond that point. There, this Court reasoned that because historical law permitted imprisonment for threatening armed conduct, “the lesser restriction of temporary disarmament” was also permissible. 602 U.S. at 699. But *Richardson* rejected converting that reasoning into a general rule that any historically permissible greater punishment automatically authorizes every lesser disability for life. The court specifically questioned whether historical authority to execute counterfeiters necessarily established authority to disarm them permanently. *Richardson*, 2026 U.S. App. LEXIS 25423, at *15–16. The greater-includes-the-lesser reasoning worked in *Rahimi* because imprisonment itself necessarily disarmed the offender during the period of punishment. *Id.* at *15–17.

Branders stands on the other side of the line *Richardson* expressly left open. Her suspended sentence and probation were imposed in 2001, while the firearm possession at issue occurred in 2024. R. at 3–4. Nothing in the record suggests that she remained under criminal supervision more than two decades later. The historical tradition identified in *Richardson* supports disarmament while criminal punishment remains operative. It does not establish that a sentence imposed decades earlier continues to justify a lifetime firearm disability after the punishment itself no longer supplies the historical basis for disarmament.

2. *Severe historical punishments for other offenses do not justify Branders’ permanent disarmament because those punishments were offense-specific.*

The Government cannot establish a historical tradition merely by showing that some Founding-era crimes carried severe punishments. *Bruen* requires a relevant historical analogy measured by how and why the historical and modern restrictions burden the right. 597 U.S. at 29–30. And *Rahimi* employed greater-includes-the-lesser reasoning where the historical punishment and modern restriction addressed the same threatening conduct and served the same protective purpose. 602 U.S. at 698–99. The question here is whether the historical treatment of offenses comparable to Branders’ supports permanent disarmament. Otherwise, severe punishment for one historically serious crime could justify permanent disarmament for an entirely different modern offense merely because both are labeled felonies.

The Fifth Circuit has required that more particularized showing. In *Diaz*, it rejected the proposition that felony status alone satisfies *Bruen*, explaining that “[s]imply classifying a crime as a felony does not meet the level of historical rigor required by *Bruen* and its progeny.” 116 F.4th at 469. The Government prevailed because it identified a close historical analogue to Diaz’s vehicle-theft conviction in Founding-era theft offenses, including horse theft, and showed that comparable offenders faced capital punishment and estate forfeiture. *Id.* at 467–69. Only after establishing that offense-specific fit did the court reason that permanent disarmament was a lesser punishment. *Id.* at 469.

United States v. Hembree applied the same requirement to simple possession of methamphetamine. 165 F.4th 909, 911–12 (5th Cir. 2026). Although the Government relied on severe historical punishments for other contraband-related offenses, the court found those analogies insufficient to support permanent disarmament for simple possession. *Id.* at 912–18.

Cockerham likewise rejected an analogy between felony failure to pay child support and theft because Founding-era law treated debtors differently from thieves. 162 F.4th at 504–07. Because *Cockerham* had satisfied the underlying obligation, the court found “no historical justification” for continuing to disarm him. *Id.* at 507. Branders’ offense was graver, but the methodological point is the same. The historical justification must fit the predicate offense, not merely the modern felony label.

The severity of historical punishment does not eliminate that requirement. Blackstone described manslaughter as a felony within the benefit of clergy, punishable by branding and forfeiture of the offender’s goods and chattels. 4 William Blackstone, *Commentaries on the Laws of England* *193 (1769). Yet he also explained that after branding, or a pardon of it, the offender was “restored to all capacities and credits” and to possession of his lands as though he had never been convicted. *Id.* at *374. Thus, even if the Government analogizes Branders’ offense to manslaughter arising from culpable neglect resulting in death, that history shows severe punishment followed by restoration, not an automatic lifetime civil disability. Branders was convicted of felony child neglect, not homicide. R. at 2–3. The Government must justify the consequence attached to the conviction she actually received.

The First Congress similarly provided that “no conviction or judgment” under the Crimes Act of 1790 would work “corruption of blood, or any forfeiture of estate.” Act of Apr. 30, 1790, ch. 9, § 24, 1 Stat. 112, 117. That provision does not show that serious crimes carried no lasting consequences. But it further undermines the assumption that severe punishment necessarily entailed permanent civil disability after the punishment ended.

Duarte adopted a broader view, reasoning that because Founding-era legislatures could punish felons by death or estate forfeiture, “the lesser restriction of permanent disarmament” was

also permissible. *Duarte*, 137 F.4th at 756. But *Rahimi* does not require that extension. Its reasoning moved from imprisonment for threatening armed conduct to the “lesser restriction of temporary disarmament” imposed to address the same threat. 602 U.S. at 699. And *Richardson* cautioned that “some greater-includes-the-lessor arguments are problematic in the Second Amendment context,” questioning whether historical authority to execute counterfeiters necessarily implied authority to disarm them for life. 2026 U.S. App. LEXIS 25423, at *15–16. Historical authority to impose a severe punishment for one offense therefore does not automatically establish authority to impose permanent disarmament for another.

That historical fit is missing here. Branders was convicted of felony child neglect, not theft, counterfeiting, burglary, or another offense for which courts have identified a Founding-era analogue carrying the severe punishments on which the Government relies. The gravity of her conduct does not relieve the Government of showing that comparable misconduct historically carried consequences supporting permanent disarmament. Severe punishments attached to materially different offenses cannot supply that justification. Otherwise, the historical inquiry would end where *Diaz* says it cannot, with the modern felony label itself. 116 F.4th at 469–70.

D. Section 922(g)(1)’s Application to Branders’ Possession of a Handgun in Her Home Further Departs from Historical Tradition.

Section 922(g)(1), as applied here, prohibits conduct at the core of the Second Amendment: keeping a handgun in the home for protection. *See Heller*, 554 U.S. at 628–30. Branders accepted the handgun after a friend suggested that she obtain one for protection amid concerns about Nelson’s angry outbursts and the people he brought into her home. R. at 3. She kept the firearm locked away and told federal agents that the handgun and ammunition were stored in separate locked drawers. R. at 3–4. The record contains no allegation that she threatened anyone with the firearm or otherwise misused it. *See* R. at 3–4.

Those circumstances matter because the historical comparison considers not only why a restriction operates, but how it burdens the right. *See Bruen*, 597 U.S. at 29–30. The traditions identified above permitted disarmament while an operative danger, disqualifying status, or criminal punishment supplied the justification. None accompanied Branders’ possession in 2024. *See R.* at 3–4. Yet § 922(g)(1) prohibited even her possession of a handgun in her home for self-defense solely because of a conviction entered more than two decades earlier. History does not support extending those traditions that far.

CONCLUSION

This Court should reverse the judgment of the court of appeals and hold that as-applied Second Amendment challenges to 18 U.S.C. § 922(g)(1) remain available. This Court should further hold that § 922(g)(1) is unconstitutional as applied to Terry Branders because the Government cannot identify a historical tradition sufficiently analogous to justify her continuing disarmament. The judgment should be reversed and the case remanded with instructions to vacate Branders’ conviction and dismiss the indictment.

Respectfully submitted,

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