
No. 2026-100-202

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 2026

TERRY BRANDERS,
Petitioner,

v.

THE UNITED STATES OF AMERICA,
Respondent.

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

BRIEF FOR RESPONDENT

GS
Counsel for Respondent

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QUESTIONS PRESENTED

- I. Does the Second Amendment permit Congress to disarm persons convicted of felonies after full criminal process, while providing pardon, restoration of civil rights, and administrative relief for those who show they are no longer dangerous?
- II. If an as-applied challenge is available, does the Second Amendment permit Congress to disarm a person convicted of felony child neglect after an eleven-month-old entrusted to her unlicensed home daycare was left in a transport van and died of heat injuries?

STATEMENT OF THE CASE

I. Statement of Facts

Terry Branders (“Branders”) ran an unlicensed daycare out of her Virginia home. R. at 2. In 2000, an eleven-month-old boy in her care, Kenneth Drew, was left in the daycare’s van and died of heat injuries. *Id.* A Virginia court convicted her of felony child neglect. R. at 2–3. More than two decades later, federal agents found a handgun in her living room, and she was charged with possessing a firearm as a felon. R. at 4.

The Unlicensed Daycare. In 2000, Branders operated an unlicensed home daycare center for young children. R. at 2. To help manage the children, her eighteen-year-old son Nelson provided transportation in an aging 15-passenger van with one car seat. *Id.* One morning, following a late night, Nelson transported twelve children to Branders’s unlicensed daycare center, yet only Kenneth Drew, an eleven-month-old, was in a car seat. *Id.* Afterwards, Nelson returned to his apartment to sleep without dropping Kenneth off, leaving him in the van. *Id.* Assuming Nelson dropped Kenneth off, Branders did not check Kenneth’s crib for two hours. *Id.* When she finally noticed Kenneth’s absence, she spent over an hour attempting to contact Nelson and Kenneth’s mother before calling law enforcement for assistance. *Id.* Neither Nelson nor Kenneth’s mother answered. *Id.*

The Conviction. As a result of Branders’s conduct, Kenneth suffered severe heat-related injuries and died. R. at 2. On March 5, 2001, the Commonwealth of Virginia convicted Branders and Nelson of felony child neglect under Va. Code § 18.2-371.1 and convicted Branders of misdemeanor operating an unlicensed daycare. R. at 2–3. Branders received a two-year suspended sentence and was placed on probation, while Nelson received a four-year prison sentence. R. at 3. In the intervening years, Branders was convicted of reckless driving for operating a vehicle 18 miles over the speed limit. *Id.* As a result, she received a six month license suspension. *Id.*

The Search & Handgun. During the Covid-19 pandemic, Branders moved to Appleton, Newcoastland, where she became involved in the community by volunteering, working with

charities, and stocking school supplies. R. at 3. As Branders entered her late seventies, Nelson moved in to “assist her.” R. at 3–4. Branders suspected Nelson might have used or sold drugs and found some of his friends to be “particularly scary.” R. at 3. Despite his frequent angry outbursts, unemployment, and suspicious personal life, Branders allowed Nelson to stay in the basement. *Id.*

In June 2024, the Drug Enforcement Administration received a tip about Nelson and started investigating Nelson’s suspected drug activity. R. at 3. The DEA knew Nelson lived with Branders, found both of their prior felony convictions, and began surveilling the house. R. at 3–4. One day, when Branders was home alone, the DEA approached without a warrant hoping Branders would allow them to search. R. at 4. DEA agent Sue Stern testified that asking Branders for consent to search was “way easier” than obtaining a warrant due to the little information the agency had on Nelson. *Id.* Branders allowed the agents to search, and they found her gun. *Id.* To Branders’s surprise, the agents arrested her for possession of a firearm. *Id.* Branders kept the gun and ammunition locked in separate drawers. *Id.* Branders received that gun from a coworker, Betty Haskil. R. at 3. Betty thought Branders needed it for self-protection and gave Branders one of her husband’s guns as a gift. *Id.*

II. Procedural History

The District Court. The United States charged Branders with possessing a firearm as a convicted felon in violation of 18 U.S.C. § 922(g)(1). R. at 4. Branders moved to dismiss the indictment, arguing that the statute, as applied to her, violated her Second Amendment right to keep and bear arms for self-defense. R. at 1. The district court granted Branders’s motion to dismiss the indictment, adopting the approach of the Third, Fifth, and Sixth Circuits, which allows as-applied challenges to § 922(g)(1). *Id.* Although the district court recognized that other circuits categorically preclude felons from individually challenging the statute, it adopted the contrary approach. R. at 7. The court reasoned that *Bruen* required evaluating an individual felon’s predicate offense under this

Nation's historical tradition of disarmament based on "how" and "why" founding-era laws burdened the Second Amendment right to self-defense. *Id.* Moreover, the court viewed the circumstances surrounding Branders's predicate offense as a clear example of why the categorical approach should be rejected. *Id.* In arriving at its conclusion, the Court explained that, as applied to Branders, § 922(g)(1) violated her Second Amendment right because her predicate felony offense was not the product of malice or "purposefully dangerous behavior," but rather negligence. R. at 6. The government timely appealed. R. at 8.

The Court of Appeals. On appeal, the United States Court of Appeals for the Fourteenth Circuit reversed and vacated the lower court's judgment. R. at 8, 10. The Fourteenth Circuit held that the court "erred when it applied a case-by-case analysis instead of simply applying the law." R. at 8. Furthermore, the Fourteenth Circuit held that the court failed to perform the historical analysis required by *Bruen*. *Id.* In adopting the Eighth Circuit's reasoning, the Fourteenth Circuit held that convicted felons are categorically precluded from challenging 18 U.S.C. § 922(g)(1) because, historically, legislatures possessed the discretion to categorically disarm classes of individuals who deviated from this Nation's legal norms. R. at 10. Therefore, under § 922(g)(1), this Nation's historical tradition does not require courts to engage in "felony-by-felony litigation." *Id.*

Judge Pinckney dissented. R. at 9. Although he agreed that the court failed to conduct the required historical analysis, he believed it nevertheless reached the correct conclusion. R. at 10. Judge Pinckney argued that this Nation's history does not justify disarming Branders, and as applied to her, 18 U.S.C. § 922(g)(1) violated her Second Amendment right to bear arms in self-defense. *Id.*

Following remand, Branders entered an *Alford* plea expressly reserving her right to appeal the denial of her motion to dismiss. R. at 12. While the Fourteenth Circuit held that Branders properly preserved her arguments, it nevertheless affirmed its prior judgment. *Id.*

SUMMARY OF THE ARGUMENT

This case asks who decides which convicted felons may keep a gun: Congress, once, for the whole class, or a federal judge, one felon at a time. Congress drew its line at a felony conviction, where legislatures have drawn it since before the founding, and it left room for individual relief through pardon, restoration of rights, and § 925(c). The Fourteenth Circuit correctly declined to redraw that line for Terry Branders, and its judgment should be affirmed.

I

The Fourteenth Circuit correctly held that 18 U.S.C. § 922(g)(1) is constitutional as applied to convicted felons as a class. It also correctly held that a felon may not relitigate, case by case, whether she belongs in that class. Three reasons support that holding.

First, this Court's decisions from *Heller* to *Hemani* have described felon-in-possession prohibitions as presumptively lawful. Second, founding-era legislatures disarmed whole classes of people they judged unwilling to obey the law, and they did so without individualized findings of dangerousness. Third, a felony conviction at the founding could carry death, forfeiture of estate, and attainder. A legislature that could take a felon's life and property could also take the lesser step of taking his firearms.

Congress placed the individual inquiry elsewhere: in pardon, in restoration of civil rights, and in administrative relief under § 925(c). An as-applied challenge to §922(g)(1) therefore asks only whether the defendant stands convicted of an unpardoned, unexpunged felony. Branders stands convicted of one, and her challenge fails.

II

Even if a court may look past the conviction, § 922(g)(1) is constitutional as applied to Branders. The question is what her conviction established. It is not how a court would describe her conduct decades later. The district court held that disarming Branders violated the Second

Amendment because her offense rested on negligence rather than malice. That holding misreads both the history and her conviction.

Branders did not intend Kenneth's death, and Respondent does not suggest she did. But the founding generation punished culpable killings without intent among its gravest felonies. Her conviction is the modern-day counterpart to involuntary manslaughter. She took on a duty to care for the children in her daycare, and she put twelve of them in a van with a single car seat. Founding-era law treated a death caused by that kind of gross neglect as felony homicide. It punished the offender with imprisonment, branding, and forfeiture of his goods. Disarmament is a lesser burden. And her conviction supplies the process *Hemani* requires before the government may disarm her.

Branders points to more than twenty years of lawful life, her charity work, and her age. None of these changes the result. At the founding, the consequences of a felony conviction lasted for life. Congress kept that rule when it made § 922(g)(1) permanent, even though it made other firearm restrictions temporary. It also gave felons like Branders a way back through § 925(c).

A felony conviction is the line Congress drew and the line history supports. Branders stands on the far side of it, and the relief Congress built remains open to her. The judgment of the Fourteenth Circuit should be affirmed.

ARGUMENT

Standard of Review. This Court reviews a constitutional challenge to a statute de novo. *United States v. Diaz*, 116 F.4th 458, 462 (5th. Cir. 2024); R. at 9.

- I. **A felon may not challenge § 922(g)(1) as applied on any ground other than membership in the class, because the Nation's tradition permits Congress to disarm felons as a class.**

The Second Amendment guarantees the individual right to keep and bears arms in self-defense. U.S. const. amend. II. The Amendment also permits Congress to disarm a category of

persons when the Nation’s historical tradition supports disarming that category. The question is whether the category fits the principles that underpin that tradition, not whether each member of the category would have been disarmed in 1791. When the category is justified, the statute is constitutional as applied to every felon, and no individual offender may ask for an exemption from a line the Constitution permits Congress to draw. *See N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 17 (2022); *United States v. Rahimi*, 602 U.S. 680, 691–92 (2024).

This case turns on who draws the line: Congress, once, or the courts, one felon at a time. That is a question of separation of powers as much as history. Congress drew its line at a felony conviction, where legislatures have drawn it since the founding. Branders asks this Court to replace that line with lines drawn case by case, measuring each felony against a founding-era counterpart and each felon against a prediction of future danger. Here lies the result: the district court called a conviction arising from an infant’s death “negligence rather than malice,” R. at 6; the panel vacated; and the dissent would have reached the district court’s result on different historical grounds. R. at 10–11. The courts that have tried that approach have reached opposite results on materially similar crimes. The Third Circuit held § 922(g)(1) unconstitutional as applied to a defendant convicted of food-stamp fraud. *Range v. Att’y Gen.*, 124 F.4th 218, 232 (3d Cir. 2024) (en banc). The Tenth Circuit upheld the statute as applied to a woman convicted of bank fraud. *Vincent v. Bondi*, 127 F.4th 1263, 1266 (10th Cir. 2025); *see United States v. Hemani*, 608 U.S. 772, 803 n.1 (2026) (Jackson, J., concurring) (calling the split “a stark example” of inconsistency).

Four reasons confirm that Congress’s line holds. First, this Court has always described felon prohibitions as lawful, by class rather than by offense. Second, founding-era legislatures disarmed whole categories of people without individual hearings. Third, a felony conviction at the founding carried death and forfeiture of estate, consequences far greater than disarmament. Fourth,

Congress has already provided individualized relief, leaving no line for courts to redraw. Because the tradition operates at the level of the category, § 922(g)(1) is constitutional as applied to every individual within the class Congress defined, and a felon’s as-applied challenge is limited to whether she belongs to that class: whether she stands convicted of a qualifying offense, and whether that conviction has been expunged, pardoned, or her rights restored, under § 921(a)(20).

A. From *Heller* through *Hemani*, this Court has described felon prohibitions as presumptively lawful by class, never by offense.

From the start of this Court’s Second Amendment jurisprudence, it has placed felon prohibitions inside the tradition, and it identified them by class, never by type of offense. *Heller* declared that “nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons,” and it listed those prohibitions among “presumptively lawful regulatory measures.” *District of Columbia v. Heller*, 554 U.S. 570, 626–27 & n.26 (2008). The right *Heller* recognized belonged to “law-abiding, responsible citizens.” *Id.* at 635. Two years later, the *McDonald* plurality reaffirmed the point: “We repeat those assurances here.” *McDonald v. City of Chicago*, 561 U.S. 742, 786 (2010) (plurality opinion). Neither opinion separated violent felons from nonviolent ones, or old convictions from recent ones. This Court spoke of felons, and of nothing narrower.

Bruen carried the same description. The opinion repeated “law-abiding” throughout, and it approved shall-issue licensing regimes because their background checks are “designed to ensure only that those bearing arms in the jurisdiction are, in fact, ‘law-abiding, responsible citizens.’” 597 U.S. at 38 n.9. Two concurrences said expressly that nothing in the opinion disturbed *Heller*’s felon language. *Id.* at 72 (Alito, J., concurring) (explaining that the Court’s holding “decides nothing about who may lawfully possess a firearm”); *id.* at 81 (Kavanaugh, J., joined by Roberts, C.J., concurring) (reiterating that “longstanding prohibitions on the possession of firearms by felons” remain “presumptively lawful” (quoting *Heller*, 554 U.S. at 626–27 & n.26))).

Rahimi supplies the method. Zackey Rahimi was disarmed under § 922(g)(8) by a domestic-violence restraining order entered after a court found that he posed a credible threat to his partner’s safety. 602 U.S. at 686–89. The Court upheld the statute. It held the government need not identify a “historical twin,” only a law “consistent with the principles that underpin our regulatory tradition,” and it found that principle in founding-era surety and going-armed laws. *Id.* at 692, 698.

Rahimi reaffirmed the felon language after *Bruen*. The Court repeated that prohibitions on the possession of firearms by “felons and the mentally ill” are “presumptively lawful.” 602 U.S. at 699 (quoting *Heller*, 554 U.S. at 626, 627 n.26). And while the Court rejected “responsible” as “a vague term,” *id.* at 701–02, Respondent rests on the Court’s specific felon language, not on “law-abiding” alone; unlike “responsible,” “law-abiding” has precise content, which a conviction satisfies. Respondent does not argue that felons lack virtue, only that legislatures have always possessed the discretion to disarm groups defined by serious conduct that breaks the law. This Court’s description therefore covers felons as a group, and nothing in it delineates felons by kind.

Hemani confirmed the point. Ali Hemani told federal agents that he used marijuana about every other day, and as a result was charged under § 922(g)(3) for possessing a gun as an unlawful drug user. *Hemani*, 608 U.S. at 772. The Court held the prosecution unconstitutional because the founding-era laws the government offered disarmed only dangerously incapacitated drunkards, and generally only after some process. *Id.* at 781–87. But the Court explained that § 922(g)(1) involves “pre-deprivation process,” so “nothing in our opinion should be taken to cast doubt” on it. *Id.* at 791 n.6 (quoting *Heller*, 554 U.S. at 626). Justice Alito, joined by Justice Kagan, added that § 922(g)(1) remains “presumptively lawful.” *Id.* at 806 (Alito, J., concurring in the judgment).

Branders will argue that a presumption can be rebutted, so “presumptively lawful” invites her to prove, person by person, that the statute cannot reach her. It does not. “Presumptively”

described a historical justification the Court had not yet laid out; it signaled that felon prohibitions would survive a full historical analysis, not that each felon would receive a hearing. It did not create a per-person presumption. *Hemani*'s footnote and Justice Alito's concurrence treat the presumption as a statement about the provision. The Court, and Justices writing separately, have repeated the language across eighteen years without once suggesting a per-person rebuttal procedure. The circuits § 922(g)(1) have read it that way. *United States v. Jackson*, 110 F.4th 1120, 1125–26 (8th Cir. 2024); *United States v. Duarte*, 137 F.4th 743, 761–62 (9th Cir. 2025) (en banc); *United States v. Hunt*, 123 F.4th 697, 707 (4th Cir. 2024). *Contra Range*, 124 F.4th at 232. From *Heller* through *Hemani*, this Court has described the line the same way, and that line is the conviction.

B. Founding-era legislatures disarmed entire categories of people without individualized hearings, and felons are the oldest such category.

Bruen places the burden on the government. 597 U.S. at 24. The government carries it once, for the class, by showing a tradition of disarming the category; no further showing is owed for each member, just as *Rahimi* upheld § 922(g)(8) on a principle. 602 U.S. at 698–700. *Rahimi* was a facial challenge; the Court upheld the statute on the principle, not on the record of *Rahimi*'s own case. *Id.*

Disarming by category is the historical norm, and individual hearings were never part of it. From the English Bill of Rights through ratification, legislatures identified groups they judged unwilling to obey the law and disarmed every member, without asking whether any particular member posed a danger. *Jackson*, 110 F.4th at 1126–27; *Hunt*, 123 F.4th at 707. The tradition predates the Second Amendment. After the Glorious Revolution, Parliament disarmed Catholics who refused to take the oath of allegiance. 1 W. & M., c. 15 (1688). The English Bill of Rights then guaranteed that Protestant subjects “may have Arms for their Defence suitable to their Conditions, and as allowed by Law.” Bill of Rights 1689, 1 W. & M., sess. 2, c. 2. *Heller* treats

that guarantee as “the predecessor to our Second Amendment.” 554 U.S. at 593. The “as allowed by Law” qualifier shows that Parliament retained the power to define who was excluded. The right of the Framers inherited thus came with legislative authority to decide, by category, who could not be trusted with arms.

American legislatures exercised the same authority during the Revolution. Massachusetts disarmed those who refused to declare their loyalty to the American cause. Act of Mar. 14, 1776, ch. 21, 1775–1776 Mass. Acts 479. Pennsylvania did the same the next year, disarming every person who refused to swear allegiance to the Commonwealth. Act of June 13, 1777, ch. 756, 9 Pa. Stat. 110, 110–14. Neither law asked whether a particular non-juror was dangerous. Refusing the oath placed a person in the class, and the class was disarmed. See Jackson, 110 F.4th at 1126–27 (collecting these laws). Branders will contend that these laws targeted the danger of armed rebellion, not lawbreaking. Whatever the motive, the method was categorical.

The ratification debates confirm the Founders understood the right coexisted with that authority. The Pennsylvania Minority, whose proposal *Heller* called “highly influential,” 554 U.S. at 604, would have barred any law “for disarming the people or any of them, unless for crimes committed *or* real danger of public injury from individuals.” 2 Bernard Schwartz, *The Bill of Rights: A Documentary History* 665 (1971) (emphasis added). The “or” makes the commission of a crime a ground for disarmament separate from danger. In Massachusetts, Samuel Adams proposed protecting only “peaceable citizens.” *Id.* at 681. New Hampshire would have permitted disarming those who “are or have been in Actual Rebellion.” *Id.* at 761. Though none of these proposals were adopted, each assumed that legislatures held the discretion to disarm by category; they differed only over which categories.

Felons are the oldest category. *Rahimi* asks whether a modern law is “consistent with the principles that underpin our regulatory tradition,” not whether it has a “historical twin,” and it

warned that *Bruen* was never meant to require “a law trapped in amber.” 602 U.S. at 691–92. At that level of analysis, § 922(g)(1) fits the tradition without any offense-by-offense match. Congress identified a class whose serious crime demonstrates that they will not abide by the law, and it disarmed the class. That is what Parliament, the Revolutionary legislatures, and the ratifying conventions all contemplated. *See Jackson*, 110 F.4th at 1127; *see also Hunt*, 123 F.4th at 707.

Branders will answer, with then-Judge Barrett’s *Kanter* dissent, that the tradition permits disarming only the dangerous. *Kanter v. Barr*, 919 F.3d 437, 451, 464–65 (7th Cir. 2019) (Barrett, J., dissenting). But even on that account, legislatures made the dangerousness judgment for the category. *Cf. id.* (accepting category-based judgments); *but see Range*, 124 F.4th at 232. *Rahimi* and *Hemani* confirm that such judgments remain permissible, 602 U.S. at 698; 608 U.S. at 791 n.6, and a conviction for serious crime is the most reliable proxy for danger the law has. The Pennsylvania Minority’s “crimes committed, *or* real danger” also treated crime as a ground independent of danger. Respondent acknowledges plainly that some of these laws, including those aimed at Catholics and at those who withheld loyalty oaths, are odious by modern standards. They are cited only for the legislative power they show, and the courts collecting them have said the same. *See Jackson*, 110 F.4th at 1126–27. The historical fact is not in dispute. The inference from it is that legislatures disarmed by class, and that inference is the point this section proves.

Hemani adopted Justice Barrett’s warning against a “broad power to designate any group as dangerous,” but it expressly reserved § 922(g)(1). 608 U.S. at 775, 793. The category it rejected rested on bare status and no process; the felony category rests on criminal seriousness and a conviction. *Hemani* lost his right on his own admission; Branders lost hers after her conviction.

C. Founding-era felonies carried death or forfeiture, so lasting disarmament is a lesser consequence than a felony conviction has always imposed.

At common law, a felony was defined by its consequences, and those consequences were death and forfeiture. Blackstone described a felony as “an offence which occasions a total forfeiture

of either lands, or goods, or both...to which capital or other punishment may be superadded.” 4 William Blackstone, *Commentaries*, *95. The “idea of felony,” he explained, was “so generally connected with that of capital punishment” that the two were hard to separate. *Id.* at *98. This Court has likewise recognized that death was “the standard penalty for all serious crimes” at the founding. *Bucklew v. Precythe*, 587 U.S. 119, 129 (2019) (quoting Stuart Banner, *The Death Penalty: An American History* 23 (2002)).

The courts of appeals have drawn the natural conclusion: a legislature that could take a felon’s life and estate could take his arms. As the D.C. Circuit put it, “it is difficult to conclude that the public, in 1791, would have understood someone facing death and estate forfeiture to be within the scope of those entitled to possess arms.” *Medina v. Whitaker*, 913 F.3d 152, 158 (D.C. Cir. 2019). The en banc Ninth Circuit agreed. *Duarte*, 137 F.4th at 756–58. Even the Fifth Circuit, which permits as-applied challenges, agreed: “if capital punishment was permissible to respond to theft, then the lesser restriction of permanent disarmament . . . is also permissible.” *United States v. Diaz*, 116 F.4th 458, 469 (5th Cir. 2024); *see id.* at 468–69.

Forfeiture of goods took the felon’s arms along with everything else he owned. *See* 4 Blackstone, *supra*, at *387; *Medina*, 913 F.3d at 158. A founding-era felon thus lost his firearms as a matter of course, and often his life. Lasting disarmament is a strictly lesser consequence of the same status. This Court reasoned the same way in *Rahimi*; because the relief imprisonment was a permissible response to threatening others with firearms, “the lesser restriction of temporary disarmament” was “also permissible.” 602 U.S. at 699. If the founding generation could attach the greater consequences to a felony conviction, Congress may attach the lesser one.

That *Rahimi* approved only “temporary” disarmament, even of a gun kept in the home, does not aid Branders; if imprisonment justified temporary disarmament, death and forfeiture justify lasting disarmament. 602 U.S. at 699. And § 922(g)(1) is not truly permanent; the relief described in

Part I.D, *infra*, can end it.

Branders offers two answers. First, she argues that felons do not forfeit their rights wholesale: a felon keeps his right to speak, to worship, and to be free from unreasonable searches. *See Kanter*, 919 F.3d at 458–61 (Barrett, J., dissenting). True, but Respondent does not claim that a felony conviction strips every constitutional right. The claim is specific to arms, and it rests on the tradition set out in Part I.B, *supra*: legislatures have always held authority to disarm categories of persons, and felons are the oldest such category. And felons who escaped execution commonly forfeited their goods, arms included. *But see id.* at 461–62.

Branders will adopt Judge Pinckney’s dissent that child neglect was not a founding-era felony. *R.* at 11 (Pinckney, J., dissenting). But the felony category was never frozen. Even at the founding, “felony” was “a term of loose signification,” *The Federalist* No. 42 (James Madison), and founding-era legislatures created new felonies freely, exercising the same discretion that defined the category initially. *See Diaz*, 116 F.4th at 467–68. The category was always legislatively defined and always expanding, so a modern legislature that exercises the same power that created it. The question is whether Congress may disarm felons as a class, not whether each modern felony had a founding-era twin. Even on Branders’s offense-by-offense approach, her crime has a founding-era counterpart: involuntary manslaughter, a common-law felony that carried forfeiture. *See Part II.A, infra.*

Nor does it matter that federal law disarmed all felons only in 1961. Act of October 3, 1961, Pub. L. No. 87-342, § 2, 75 Stat. 757. The argument resides upon a founding-era principle, not the age of a statute; founding-era felons faced death and forfeiture. Thus, no separate arms ban was needed. The conviction carries the consequence. That was true in 1791, and it is true now.

D. Congress placed individualized relief in pardon, restoration of rights, and § 925(c), outside the criminal courts.

Individual circumstances are not irrelevant. They matter, and Congress built a place for them. That place is outside the criminal courts. A felon who believes she no longer belongs in the prohibited class can seek a pardon, restoration of rights, or relief under § 925(c), but she has no constitutional right to have a criminal court redraw the class for her.

The statutory scheme accounts for the individual at every turn. A conviction does not count under § 922(g)(1) if it “has been expunged or set aside or for which a person has been pardoned or has had civil rights restored,” unless the pardon or restoration expressly preserves the firearms disability. 18 U.S.C. § 921(a)(20). What counts as a conviction “shall be determined in accordance with the law of the jurisdiction in which the proceedings were held.” *Id.* For state convictions, state law governs those avenues. *Beecham v. United States*, 511 U.S. 368, 371–73 (1994); *Caron v. United States*, 524 U.S. 308, 313 (1998). And § 925(c) allows any person under a firearms disability to obtain relief on a showing that he “will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest.” 18 U.S.C. § 925(c). Although Lewis applied a standard of review that *Heller* superseded, its account of the statute’s design stands: Congress keyed the disability to the fact of conviction and provided relief through pardon, restoration, and § 925(c). *Lewis v. United States*, 445 U.S. 55, 64–66 (1980).

Branders has those avenues. She was convicted in Virginia, R. at 2–3, which permits restoration of civil rights, and, once those rights are restored, a separate petition to the circuit court to regain her Second Amendment right. Va. Const. art. V, § 12; Va. Code Ann. § 18.2-308.2(C). The point is not exhaustion, but that the system offers individualized relief in the forum Congress chose; nothing in the record shows that Branders sought it. The same answer meets her reliance on the passage of time: Congress assigned rehabilitation to these avenues.

The branches divide the work this way for good reason. Whether a person is likely to act

dangerously is a fact-heavy inquiry into the applicant’s background, “a function best performed by the Executive, which, unlike courts, is institutionally equipped for conducting a neutral, wide-ranging investigation.” *United States v. Bean*, 537 U.S. 71, 77 (2002); *see id.* at 76–77. A felony conviction, by contrast, is already the product of a full criminal process with every constitutional protection: notice, counsel, the right to a jury, and proof beyond a reasonable doubt. That answers the argument that *Rahimi* makes individualized process a constitutional requirement. Section 922(g)(8) requires an individualized judicial finding because a restraining order is not a criminal conviction. *See* 18 U.S.C. § 922(g)(8)(A)–(C). Section 922(g)(1) requires none because the conviction is the finding. *Hemani* confirms the point: the historical laws it examined generally required a conviction or hearing before any liberty was lost, and a felony conviction is the strongest form of that process. *Hemani*, 608 U.S. at 778. There is, accordingly, “no need for felony-by-felony litigation regarding the constitutionality of § 922(g)(1).” *Hunt*, 123 F.4th at 700 (quoting *Jackson*, 110 F.4th at 1125). That is the separation-of-powers point with which this Argument began.

Branders may respond that § 925(c) does not offer real relief because Congress defunded it. For three decades, appropriations riders barred the Executive from funding § 925(c). *See Bean*, 537 U.S. at 74–75. But pardon and restoration of rights remained available regardless, and a constitutional rule does not rise or fall with appropriations riders. As of September 21, 2026, the Justice Department reestablished § 925(c)’s process. Application for Relief From Disabilities Imposed by Federal Laws With Respect to the Acquisition, Receipt, Transfer, Shipment, Transportation, or Possession of Firearms, 91 Fed. Reg. 54,054 (Aug. 20, 2026). The rule presumptively disqualifies applicants whose felonies involved the death of another person, like Branders, but the presumption yields in “extraordinary circumstances.” 28 C.F.R. § 107.50(a). And Virginia restoration and pardon remain open regardless.

Congress drew a line at the felony conviction, and history supports it. This Court has described felon prohibitions as lawful, by class, from *Heller* through *Hemani*; founding-era legislatures disarmed whole categories without individual hearings; and the common law attached far harsher consequences to a felony than disarmament. Congress then built the exceptions itself and placed them outside the criminal courts. Because the tradition operates at the level of the category, § 922(g)(1) is constitutional as applied to every person within the class Congress defined, and a felon’s as-applied challenge is limited to whether she belongs to that class. This Court should so hold and affirm the judgment of the Fourteenth Circuit.

II. Even if as-applied challenges are available, § 922(g)(1) does not violate the Second Amendment as applied to Branders, whose felony neglect ended the life of an eleven-month-old child in her care.

If this Court permits as-applied challenges to § 922(g)(1), the inquiry should ask what the challenger’s conviction established, not how a court would characterize the underlying events a quarter century later. Branders’s conviction established willful neglect of a child in her care; that neglect ended in Kenneth’s death.¹ R. at 2.

The government bears the burden of identifying a historical tradition that justifies the disarmament it seeks to impose. *Hemani*, 608 U.S. at 780; *Bruen*, 597 U.S. at 24. Part I identifies it. And *Hemani* explains why criminal conviction completes the showing. The historical analogues required legal proceedings before a person lost any liberty, and the government failed in *Hemani* because § 922(g)(3) required none. 608 U.S. at 790–91. The Court distinguished § 922(g)(1) on precisely that ground: it involves “some manner of pre-deprivation process,” and nothing in the Court’s opinion “should be taken to cast doubt” on it. *Id.* at 791 n.6. Branders received that process. Her conviction establishes her membership in the category the tradition justifies, and with it, the

¹ The record identifies the offense as felony neglect of a child. R. at 2. Virginia’s felony child-neglect statute requires that a person responsible for a child’s care commit a willful act or omission causing serious injury or showing reckless disregard for human life. Va. Code Ann. § 18.2-371.1(A), (B)(1) (2000); see *Commonwealth v. Duncan*, 267 Va. 377, 385 (2004).

government's burden is met.²

The conviction rested on a series of choices that Branders made as the person responsible for her community's children. She ran a daycare out of her home without a license, sometimes caring for ten or more children at a time. R. at 2. She relied on her eighteen-year-old son to transport them in a fifteen-passenger van with a single car seat. *Id.* On the morning in question, after a night with only a few hours of sleep, he picked up twelve children, most of them preschoolers. *Id.* Only one, eleven-month-old Kenneth Drew, was buckled into a car seat. *Id.* Kenneth usually slept through the ride and was placed in a crib when he arrived. *Id.* That morning, he never left the van. *Id.* For about two hours, Branders did not check on him. *Id.* When she discovered he was missing, she spent more than an hour trying to reach her son and Kenneth's mother. *Id.* Only then did she call 911. *Id.* By the time police found Kenneth, he had suffered severe heat-related injuries. *Id.* He did not survive. *Id.* Virginia convicted Branders of felony neglect of a child, and separately of operating a daycare without a license. R. at 2–3.

Even if as-applied challenges are permitted, her conviction established that, as the person responsible for a child's care, she committed a willful act or omission that ended in Kenneth's death. This Nation's tradition has long permitted legislatures to answer that conduct with disarmament. Section 922(g)(1) is constitutional as applied to Branders, and the judgment of the Fourteenth Circuit should be affirmed.

A. Felony neglect causing a child's death is the modern counterpart of involuntary manslaughter, which the founding generation punished as a felony.

Under *Bruen* and *Rahimi*, a historical regulation need not be a “dead ringer” for the modern one; it need only be “relevantly similar.” *Bruen*, 597 U.S. at 29–30; *Rahimi*, 602 U.S. at 692. That inquiry turns on whether the regulations impose a comparable burden on the right of armed self-

² Whether framed around the predicate offense, *United States v. Diaz*, 116 F.4th 458, 467–70 (5th Cir. 2024), or the challenger's dangerousness, *United States v. Williams*, 113 F.4th 637, 657–63 (6th Cir. 2024), each circuit test seeks an adjudicated basis for placing the challenger within the tradition. A criminal conviction is that basis.

defense for a comparable justification: the “how” and the “why.” *Bruen*, 597 U.S. at 29. Demanding founding-era statutes that regulate the precise factual scenario or victim class analogizes at too low a level of generality, seeking a “law trapped in amber.” *Rahimi*, 602 U.S. at 691. Whether the Court looks to Branders’s predicate offense or to her record, the statute passes that test. Both approaches reflect the same historical justification, protecting the community from those whose conduct has caused the death of another, and § 922(g)(1) imposes a lesser burden than the founding era imposed for that conduct.

The Fifth Circuit looks to the predicate offense to determine whether the founding era seriously punished its underlying conduct. *Diaz*, 116 F.4th at 467. If it did, § 922(g)(1) permissibly disarms the felon because it imposes a comparatively lesser burden. *Id.* at 469 (“[I]f capital punishment was permissible to respond to theft, then the lesser restriction of permanent disarmament that § 922(g)(1) imposes is also permissible.”).

At common law, the unintentional killing of another, whether in the commission of an unlawful act or of a lawful act done without due caution, was involuntary manslaughter. 4 Blackstone, *supra*, at *191–92. As originally understood, involuntary manslaughter occurred, among other ways, when a person caused another’s death through careless conduct. *Id.* at *192. Manslaughter was a felony, though within the benefit of clergy: a first offender was branded in the hand and forfeited all his goods and chattels. *Id.* at *193. Legislatures define the offense the same way today. 2 Wayne R. LaFare, *Substantive Criminal Law* § 15.4 (3d ed. 2025) (defining involuntary manslaughter as an “unlawful killing in the commission of an unlawful act or in the commission of a lawful act without due caution”). And a killing by omission of a legal duty is treated no differently from a killing by an affirmative act. *See id.* § 6.2(a). Moreover, Branders breached her standard of care more egregiously than ordinary carelessness because she failed to uphold her affirmative duty to reasonably protect the lives of children entrusted to her care. *R.* at 2.

American practice likewise treated manslaughter as a serious crime against the person. The First Congress punished manslaughter within federal jurisdiction by up to three years' imprisonment and a \$1,000 fine, Act of Apr. 30, 1790, ch. 9, § 7, 1 Stat. 112, 113, and it abolished forfeiture of estate for federal convictions, *id.* § 24, 1 Stat. at 117. Those reforms changed the method of punishment, not the seriousness of the offense: manslaughter remained a felony at common law and an imprisonable crime under the federal code. And imprisonment is a greater burden than disarmament. *Rahimi*, 602 U.S. at 699. If the founding generation could imprison a person for an unlawful killing, Congress may impose the lesser burden of disarmament, and the relief mechanisms described in Part I.D answer any objection that the disarmament is permanent.

Branders may point to Virginia's 1796 reform, which provided that a person "guilty of involuntary manslaughter, happening in consequence of an unlawful act, may be prosecuted and punished as for a misdemeanor, only." 5 St. George Tucker, Blackstone's Commentaries 27 n.5 (1803) (citing 1796 Va. Acts ch. 2, § 12). But the provision was permissive. It gave prosecutors a charging choice; it did not decriminalize the offense. Here, the modern legislature and the Virginia court made the felony choice. And *Rahimi* looks to the principle underlying the tradition, not to a matching sentence. 602 U.S. at 692.

Nor was Branders's conduct excusable homicide *per infortunium*, an accident during a lawful act done with due care. *See* 4 Blackstone, *supra*, at *182. Her conduct was neither lawful nor careful. She operated without a license, had her son transport twelve children in a van with one car seat, did not check on Kenneth for two hours, and waited more than an hour to call 911. R. at 2–3. The conviction's "willful" element forecloses any characterization of the death as an accident. *See* note 1, *supra*. Her willful act or omission ended in the child's death. R. at 2.

That the conviction rests partly on omissions does not lessen its seriousness. The common law has long imposed criminal liability for a death caused by the failure to perform a legal duty, and

it treats that failure as it treats an affirmative act. 2 LaFave, *supra*, § 6.2(a). Branders owed Kenneth that duty on multiple independent grounds. She undertook his care by agreement with his parents. *Id.* § 6.2(a)(3). And she voluntarily assumed the care of a helpless infant. *Id.* § 6.2(a)(4). A caregiver who fails such a duty and thereby causes a child’s death has committed the kind of homicide the founding era treated as a felony. *See* 4 Blackstone, *supra*, at *192.

A proper analogical inquiry seeks to determine the founding era’s perspective on an individual’s predicate offense, not whether specific laws or protective societies existed to protect the victim of that offense. R. at 11. Proffering such hyper-specific evidence forces the analogy to an impermissibly low level of generality, demanding a “law trapped in amber” or “historical twin.” *Rahimi*, 602 U.S. at 691–92. And adopting Judge Pinckney’s approach would evade a proper discussion of “how” and “why” the founding era treated conduct causing death. *Id.* at 692. Historical manslaughter laws need not be a “dead ringer” to reveal the underlying principle that legislatures seriously punished Branders’s conduct because of its result. *Id.*

Judge Pinckney reasoned that the founding era lacked child-neglect laws and child-protection societies. R. at 10–11 (Pinckney, J., dissenting). But the absence of child-welfare societies say nothing about criminal liability for a child’s death; homicide law covered it. The Mary Ellen Wilson case of 1874, which prompted the first such society, involved abuse short of death. R. at 11. And demanding a founding-era child-neglect statute is demanding the “historical twin” that *Rahimi* rejected. 602 U.S. at 691–92. Homicide laws protected human life, and § 922(g)(1), as applied to a homicide-type offense, serves that same purpose. That is the match *Hemani* found missing for § 922(g)(3).

A felony conviction for failure to pay child support materially differs from Branders’s predicate offense. The founding era released debtors upon payment and thieves upon return of stolen goods, *See United States v. Cockerham*, 162 F.4th 500, 506–07 (5th Cir. 2025), but it treated

the taking of a life, by neglect or by malice, as a felony. *See* 4 Blackstone, *supra*, at *191–93. Branders cannot return Kenneth to his mother. Under the Fifth Circuit’s predicate-offense framework, § 922(g)(1) permissibly disarms her.³

B. Willful neglect of a child in one’s care is conscious disregard of a risk to others, which the tradition treats as a credible threat to their safety.

Branders was convicted of felony child neglect, a crime that requires not an accident but a willful act or omission so gross, wanton and culpable as to show reckless disregard for children’s lives. Va. Code Ann. § 18.2-371.1(B)(1) (2000). A person who consciously disregards a known risk to those in her care is precisely the kind of person the historical tradition treats as a credible threat to others’ safety. *Rahimi*, 602 U.S. at 700. Two rules govern what the Court considers: the predicate offense and the criminal record. *United States v. Williams*, 113 F.4th 637, 659 (6th Cir. 2024); *United States v. Watson*, 171 F.4th 1012, 1019 (7th Cir. 2026) (“[T]he government may point to more than one ‘distinct legal regime’ to justify its contemporary regulation”). Branders’s reckless-driving conviction and daycare misdemeanor come in. R. at 3. Her charitable work and the household suspicions do not, except for the firearm-access point noted below.

The district court mislabeled the conviction as a product of negligence. R. at 6. Felony neglect under subsection (B)(1) requires a willful act or omission “so gross, wanton, and culpable as to show a reckless disregard for human life.” Va. Code Ann. § 18.2-371.1(B)(1) (2000); *see* note 1, *supra*. That provision targets conduct that endangers a child’s life, whether or not injury results. *Duncan*, 267 Va. at 384–85. And “willful” means “knowing or intentional, rather than accidental.” *Id.* at 384 (citing *Bryan v. United States*, 524 U.S. 184, 191–92 (1998)). The conviction is thus a judicial determination that Branders’s conduct exceeded ordinary negligence, and it shows “a

³ *See United States v. Schnur*, 132 F.4th 863, 867 (5th Cir. 2025) (upholding § 922(g)(1) as applied to a felon with robbery, burglary, and aggravated-battery convictions); *United States v. Kimble*, 142 F.4th 308, 312 (5th Cir. 2025) (same; drug trafficking); *United States v. Morgan*, 147 F.4th 522, 528 (5th Cir. 2025) (same; illegal use of a weapon in a drive-by shooting). *But see Cockerham*, 162 F.4th at 504 (holding § 922(g)(1) unconstitutional as applied to a felon convicted of failing to pay child support).

credible threat to the physical safety of others.” *Rahimi*, 602 U.S. at 700. Her willful act or omission caused Kenneth’s death.

Voisine shows that disarmable conduct includes the conscious disregard of a risk to others. *Voisine v. United States*, 579 U.S. 686, 693–94 (2016). Construing the federal disarmament statute itself, this Court held that reckless conduct qualifies as a “misdemeanor crime of domestic violence” under § 922(g)(9). *Id.* The Court distinguished “true accidents” from volitional conduct undertaken with awareness of a substantial risk of injury to another which is “the result of a deliberate decision to endanger another.” *Id.* at 694. That holding is statutory, not constitutional, but it provides that the law has long treated conscious disregard of a risk to others as conduct warranting disarmament.

Branders’s conviction reflects that kind of volitional choice. She chose to care for other people’s children without a license. R. at 2. She chose to send twelve children in a van with a single car seat, driven by a son who had slept only a few hours. *Id.* And after she discovered that Kenneth was missing, she chose to spend more than an hour trying to reach others before calling 911. *Id.* None of those choices was a true accident. Each was made with awareness of the risk it posed to the children in her care.

Treating “purposefully dangerous behavior” or malice as a prerequisite for disarmament demands a “historical twin.” *Rahimi*, 602 U.S. at 691; R. at 6. The founding era classified Branders’s predicate offense as a felony. 4 Blackstone, *supra*, at *193. It distinguished among mental states to grade homicides, but it did not reserve felony status or punishments for killings done with malice. *Id.*; see generally *Bucklew*, 587 U.S. at 129; *Tennessee v. Garner*, 471 U.S. 1, 13–14 (1985). The district court therefore erred by analogizing to the mental state of Branders’s offense rather than assessing her underlying conduct. See *Rahimi*, 602 U.S. at 695–97 (examining the conduct surety and going-armed laws addressed).

This Nation has long treated crimes against the person as “strong evidence that an individual is dangerous.” *Williams*, 113 F.4th at 658 (“Offenses in this category speak directly to whether an individual is dangerous”). Indeed, § 922(g)(1)’s predecessor, the Federal Firearms Act of 1938, disarmed those convicted of crimes of violence. *Id.* at 659. And while the founding era distinguished among types of homicide, it classified conduct causing death as felonious. *See* 4 Blackstone, *supra*, at *191–93; *Williams*, 113 F.4th at 660 (“[H]istorical crimes against the person. . . more strongly suggest an individual is dangerous.”). Section 922(g)(1) “grew out of concern for guns in the hands of dangerous criminals.” *Id.* Even if Branders argues, like the district court, that Kenneth’s death resulted from negligence rather than malice, crimes that put someone’s safety at risk “justify a finding of danger.” *Id.* at 659.

Branders’s conduct, fixed by her conviction, shows that danger. Disregarding the life and safety of the most vulnerable individuals entrusted to her care establishes that she poses a “credible threat to the physical safety of others.” *Rahimi*, 602 U.S. at 700.

Branders will contend that no court found her to be a credible threat, as a court did in *Rahimi*, and that *Rahimi* concerned intentional threats against a specific person. *Id.* But her Virginia conviction is a judicial finding, made beyond a reasonable doubt, and more demanding than *Rahimi*’s civil order. And that tradition is framed around public safety, not threats to one person. Justice Barrett’s test points the same way. Her *Kanter* dissent explained that founding-era legislatures disqualified categories of people when necessary to protect public safety. 919 F.3d at 451 (Barrett, J., dissenting). Her test asks whether a person belongs to a dangerous category or bears individual markers of risk. *Id.* Branders does both. Her offense is a crime against the person that ended a life, and her record adds the markers: conviction for operating a daycare without the license meant to protect children, and a later conviction for reckless driving. This dissent speaks mostly of violence, but as *Voisine* shows, disarmable conduct includes conscious disregard of a risk to others.

In *Range*, the Third Circuit held § 922(g)(1) unconstitutional as applied to a defendant whose predicate offense was food-stamp fraud, because his record did not show that he “posed a physical danger to others.” 124 F.4th at 232. *Range* turned on the nature of the offense: a false statement to obtain food stamps. Branders’s offense was a caregiver’s willful omission that ended a child’s life. R. at 2. Moreover, her record does establish that she presents a physical danger to others. She was separately convicted of a operating an unlicensed day care that existed to protect the children in her care. R. at 3. Two decades later, she was convicted of reckless driving and had her license suspended for six months. *Id.* And one fact bears only on firearm access: she kept a handgun in a house shared with her son, a convicted felon who has angry outbursts, whom she suspected of drug activity, and whose demands she complied with. R. at 3–4.

Borden v. United States, 593 U.S. 420 (2021) is not to the contrary, even if Branders relies on it to contest *Voisine*’s holding. A plurality there held that a reckless offense is not a “violent felony” under the elements clause of the Armed Career Criminal Act, 18 U.S.C. § 924(e)(2)(B)(i); Justice Thomas concurred only in the judgment. *Id.* at 429 (plurality opinion); *id.* at 446 (Thomas, J., concurring in the judgment). The plurality distinguished *Voisine* on statutory text: the elements clause requires force “against the person of another.” *Id.* at 434–36.

Borden did not undertake an analysis of the scope of the Second Amendment; it addressed only the ACCA’s narrow statutory definition of “violent felony.” Section 922(g)(1) contains no such elemental requirement; it reaches any crime punishable by imprisonment for more than a year. 18 U.S.C. 922(g)(1). And constitutional disarmament turns not on ACCA’s classifications but on whether conduct demonstrates a “credible threat to the physical safety of others.” *Rahimi*, 602 U.S. at 700. *Borden* cannot displace this Nation’s long standing tradition of disarming individuals who disregard the safety of others. Under *Rahimi* and *Williams*, § 922(g)(1) permissibly disarms Branders because of her conduct and overall record.

C. Neither the age of the conviction nor its being her only felony lifts the disability, because felony consequences did not lapse at the founding and Congress placed rehabilitation in relief mechanisms.

Time does not help Branders. Neither the passage of twenty-five years nor a record of community service alters this Nation's historical tradition. At the founding, the disabilities attached to a felony did not expire with time. *See* 4 Blackstone, *supra*, at *380–82. Section 922(g)(1) likewise attaches to the conviction and imposes a comparatively lesser burden.

Branders's strongest facts deserve a direct answer. She is in her late seventies, she has had no similar conduct in twenty-five years, she volunteers in her community, she kept the gun locked with the ammunition stored separately, and she cooperated with the agents. R. at 3–4. She also received a two-year suspended sentence while her son received four years. R. at 3. But the sentence reflects her culpability relative to the driver; the felony conviction stands. Secure firearm storage and community service are exactly what § 925(c) and Virginia's restoration process evaluate, and nothing in the record shows she sought either. If Branders believed her conduct no longer showed danger, her recourse resided in restoration, pardon, or administrative relief. Neither the government's burden nor this Court's inquiry permits an examination of a convicted felon's non-criminal, post-conviction conduct under § 922(g)(1). And *Range* turned on the nature of the offense, not the age of the conviction; *Range*'s own conviction dated from 1995. 124 F.4th at 222.

Congress's firearm scheme confirms that its choice of permanence was deliberate. Where Congress wanted a temporary prohibition, it said so: § 922(n) applies only while a person is under indictment,⁴ and § 922(g)(8) applies only while a protective order is in effect.⁵ Section 922(g)(1) contains no such limit, and Congress placed rehabilitation in statutory relief mechanisms instead. *See* Part I.D, *supra*. And if Branders relies on *Rahimi* to argue that her disarmament must be

⁴ “It shall be unlawful for any person who is under indictment . . . to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition” 18 U.S.C. § 922(n).

⁵ It shall be unlawful for any person “who is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner... or child of such intimate partner” to possess a firearm. 18 U.S.C. § 922(g)(8).

temporary, she misreads it.

Rahimi upheld § 922(g)(8), which applies only while a restraining order is in effect because its historical analogues likewise restricted arms for a limited time: founding-era surety and going-armed laws restricted arms only until an individual posted a bond, pledged the peace, served his sentence. 602 U.S. at 696–99. The analogue for a felony conviction is different: felony consequences did not lapse with time. *Rahimi*’s “how” analysis asks whether the modern burden is comparable to the historical one, 602 U.S. at 692, and the lasting disability § 922(g)(1) imposes is lighter than the consequences the founding era attached to a felony. Time does not change what the conviction established. And the forum for rehabilitation is the one Congress chose.

Accordingly, 18 U.S.C. § 922(g)(1) permissibly disarms Branders because, under any test before this Court, her predicate offense demonstrates a credible threat to the physical safety of others. Underlying this Nation’s historical tradition of firearm regulation sits a proper historical analogue establishing that the founding era permanently disarmed individuals and civilly stripped individuals whose criminal acts killed another. As originally understood, if the founding era punished felons with forfeiture, branding, or imprisonment for negligent homicide, the significantly lesser comparative burden of firearm disarmament § 922(g)(1) imposes on Branders is permissible.

III. CONCLUSION

This Court should AFFIRM the judgment of the United States Court of Appeals for the Fourteenth Circuit in all respects.

Respectfully submitted,

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