

No. 23-683

IN THE
Supreme Court of the United States

MELYNDA VINCENT,
Petitioner,

v.

MERRICK GARLAND,
Respondent.

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

PETITIONER'S SUPPLEMENTAL BRIEF

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SUPPLEMENTAL BRIEF

Petitioner Melynda Vincent agrees with the Solicitor General that the question presented—whether people with convictions for non-violent felonies, like Ms. Vincent, should be subject to a lifetime ban on firearm possession—is ripe for “plenary review to resolve Section 922(g)(1)’s constitutionality.” Gov’t Supp. Br. 2. As the Solicitor General explains, a GVR in light of *United States v. Rahimi*, No. 22-915, would accomplish nothing.

Ms. Vincent respectfully disagrees with the Solicitor General that the Court should conducted this “plenary review” by consolidating her case with at least two others involving very different prior felony records. Simply put, the questions presented may involve the same statute, but they are analytically distinct and warrant separate review. And while *Range* is a closer match to this case, the Solicitor General’s supplemental brief overlooks her prior concession that *Range* may be a bad vehicle because the offense there was labeled a misdemeanor, not a felony.

The Court should grant this petition and not consolidate it with any other cases.

I. An “omnibus” case would be a mess.

The Solicitor General’s own descriptions of the cases she proposes to consolidate amply demonstrate their important differences. *Doss*, says the Solicitor General, involves “a lengthy criminal record” that “includes over 20 convictions.” Gov’t Supp. Br. 7. But *Rahimi* rejected the Solicitor General’s “contention that Rahimi may be disarmed simply he is not ‘responsible.’” Slip op. 17. *Doss* therefore raises myriad questions about the types of “violent” felonies that matter, the findings of sentencing courts with respect to those

felonies, and historical analogues to those felonies. *None* of that is true in Ms. Vincent’s case.

The same problem attends the Solicitor General’s suggestion that *Jackson* be consolidated with this case. Though the offenses in *Jackson* were not violent, they involved drugs—and the juxtaposition of drugs, prior crimes, and dangerousness is highly significant, requiring yet another set of arguments, analogues and historical tools. As but one example, under the Armed Career Criminal Act, a person who has “three previous convictions’ for ‘a serious drug offense’” “is thought to demonstrate a propensity for violence.” *Brown v. United States*, No. 22-6389, slip. op. at 1 (May 23, 2024). The weight of that congressional judgment, its permanence, and the unique role of prior crimes in assessing dangerousness in connection with historical analogues on gun dispossession—plus Congress’s decision to enact § 922(g)(3), barring possession of firearms by a person who is an “unlawful user of or addicted to any controlled substance”—are all unique to *Jackson* and wholly irrelevant to *Vincent* and *Range*.

While the Solicitor General is correct that all these cases concern one statute, the analytical tree here obviously has many distinct branches and will engender unique arguments in terra nova that is the post-*Bruen*, post-*Rahimi* world. Certainly the defendants will wish to file separate briefs for that reason alone. Nor would the presentation of one counsel at oral argument be appropriate where the questions are certain to touch on different case law, unique principles, and sperate questions of history. These are already three separate cases.

II. A gentle reminder.

The Solicitor General observes in her reply in *Range* that *Range* “may not be the optimal vehicle for resolving Section 922(g)(1)’s constitutionality. . . . *Range* emphasizes (Br. in Opp. 20) that Pennsylvania labels his crime a misdemeanor; the Court may prefer to resolve Section 922(g)(1)’s constitutionality in the more common context of a crime that is labeled a felony.” There is no question, by contrast, that Ms. Vincent’s long prior conviction for bank fraud (passing a bad check) was a felony. Pet. 13–14. Thus, while *Range* is otherwise a closer match to this case, it raises a complicating factor not present here.

III. An alternative perspective.

The Solicitor General urges the Court to grant plenary review in these cases because of the “frequency with which the government brings criminal cases under Section 922(g)(1).” Gov’t Supp. Br. 2–3. No doubt that is a relevant factor. But Ms. Vincent offers another reason for urgency: Until the Court resolves the question presented here—whether the government can permanently disarm a person with a single non-violent, non-drug prior felony who has never been found to pose a danger to anyone—many peaceable Americans like her will be barred from exercising a fundamental right. Ms. Vincent—a social worker, adjunct college professor, and single mother—should not be forced to wait even longer to learn the answer to this question.

CONCLUSION

The petition should be granted and not consolidated.

Respectfully submitted,

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