

NO. \_\_\_\_\_

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IN THE  
SUPREME COURT OF THE UNITED STATES

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BRANDON LEE MAYFIELD,

Petitioner,

v.

UNITED STATES OF AMIERCA,

Respondent,

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

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**PETITION FOR WRIT OF CERTIORARI**

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## QUESTION PRESENTED

Whether Mr. Mayfield's conviction under 18 U.S.C. § 922(g)(1) is unconstitutional under the Second Amendment in light of *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022).

## RELATED PROCEEDINGS

### U.S. District Court:

On February 8, 2024, judgment was entered against Petitioner Brandon Lee Mayfield in *United States v. Mayfield*, No. 4-22-CR-00242-GKF-1 (N.D. Okla. Feb. 8, 2024). App. A1-A7.

### U.S. Court of Appeals:

On June 10, 2024, the Tenth Circuit affirmed Mr. Mayfield's conviction in an unpublished decision, *United States v. Mayfield*, No. 24-5020, 2024 WL 2891344 (10th Cir. 2024). App. A8-A10.

## PETITION FOR A WRIT OF CERTIORARI

Petitioner, Brandon Lee Mayfield, respectfully petitions for a writ of certiorari to review the order and judgment of the United States Court of Appeals for the Tenth Circuit entered on June 10, 2024. In light of this Court’s grant, vacatur, and remand (“GVR”) in *Vincent v. Garland*, 80 F.4th 1197 (10th Cir. 2023), *cert. granted, judgment vacated*, No. 23-683, 2024 WL 3259668 (U.S. July 2, 2024), the Tenth Circuit is currently reconsidering *Vincent* and taking into account this Court’s decision in *United States v. Rabimi*, 144 S.Ct. 1889 (2024). Because the Tenth Circuit’s affirmed Mr. Mayfield’s case based on its decision in *Vincent*, Mr. Mayfield requests that this Court grant, vacate, and remand his case for reconsideration in light of *Rabimi* and the new Tenth Circuit opinion expected to be issued in *Vincent*.

### OPINION BELOW

The Tenth Circuit’s unreported opinion in Mr. Mayfield’s case is available at 2024 WL 2891344 (10th Cir. 2024) and is in the Appendix at A8-A10.

### JURISDICTION

The United States District Court for the Northern District of Oklahoma had jurisdiction in this criminal action pursuant to 28 U.S.C. § 3231. The Tenth Circuit had jurisdiction pursuant to 28 U.S.C. § 1291 and entered judgment on June 10, 2024. App. A8. This Court has jurisdiction pursuant to 28 U.S.C. §1254(1).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Second Amendment of the United States Constitution, U.S. CONST.

amend. II, provides:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

18 U.S.C. § 922(g)(1) provides:

It shall be unlawful for any person ... who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year ... to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

18 U.S.C. §921(a)(20) provides:

The term “crime punishable by imprisonment for a term exceeding one year” does not include –

- (A) Any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or
- (B) Any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

## STATEMENT OF THE CASE

The Petitioner, Brandon Lee Mayfield was charged with Felon in Possession of a Firearm in violation of 18 U.S.C. §922(g)(1) (hereinafter “Section 922(g)(1)”) in the Northern District of Oklahoma. The charge stemmed from Mr. Mayfield’s possession of a handgun on September 25, 2021. He moved to dismiss the single-count indictment under the Second Amendment, arguing that, in light of *New York State Rifle Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022), section 922(g)(1) was facially unconstitutional. By that time, however, he acknowledged that his claims were foreclosed by Tenth Circuit precedent, specifically *Vincent v. Garland*, 80 F.4th 1197 (10th Cir. 2023) (relying on *United States v. McCane*, 573 F.3d 1037 (10th Cir. 2009)), and he presented them for preservation only. The district court denied his motion to dismiss. Mr. Mayfield entered a conditional guilty plea in the Northern District of Oklahoma to one count of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). The Tenth Circuit affirmed, and this petition follows.

## REASONS FOR GRANTING THE WRIT

This Court’s *Bruen* decision held that for a firearms regulation to survive a Second Amendment challenge, “the government must affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms.” *Bruen*, 597 U.S. at 19. The Tenth Circuit failed to apply *Bruen*’s history-and-tradition test when it decided this case. The Tenth Circuit

also conducted no analysis of the Second Amendment’s text and historical understanding and the history and tradition of firearm regulation in this case or in *Vincent v. Garland*, the case that foreclosed his constitutional argument.

When Mr. Mayfield appealed to the Tenth Circuit, that court’s precedent foreclosed his constitutional arguments with respect to section 922(g)(1). At that time, however, multiple petitions for certiorari addressing the constitutionality of section 922(g)(1) – including in *Vincent* – also were pending before the Supreme Court.

In *United States v. Rahimi*, 144 S.Ct. 1889 (2024) this Court determined that 28 U.S.C. § 922(g)(8), which prohibits firearm possession while subject to a domestic violence restraining order, was constitutional. After that ruling, this Court granted certiorari in the cases with certiorari petitions challenging section 922(g)(1). This Court vacated the judgments and remanded the cases “for further consideration in light of” *Rahimi*. See, e.g., *Vincent v. Garland*, 80 F.4th 1197 (10th Cir. 2023), *cert. granted, judgment vacated*, No. 23-683, 2024 WL 3259668 (U.S. July 2, 2024); *Range v. Att’y Gen. United States of Am.*, 69 F.4th 96 (3rd Cir. 2023), *cert. granted, judgment vacated sub nom. Garland v. Range*, No. 23-374, 2024 WL 3259661 (U.S. July 2, 2024); *United States v. Jackson*, 69 F.4th 495, 506 (8th Cir. 2023), *cert. granted, judgment vacated*, No. 23-6170, 2024 WL 3259675 (U.S. July 2, 2024); *Cunningham v. United States*, 70 F.4th 502 (8th Cir. 2023), *cert. granted, judgment vacated*, No. 23-6602, 2024 WL 3259687 (July 2, 2024); *Doss v. United States*, 2023 WL 8299064 (8th Cir. 2023), *cert. granted, judgment vacated*, No. 23-6842, 2024 WL 3259684 (July 2, 2024).

In light of this Court’s grant, vacatur, and remand (“GVR”), the Tenth Circuit is currently reconsidering *Vincent*. See *Vincent v. Garland*, Tenth Cir. Case No. 23-8025, Order of August 5, 2024 (setting supplemental briefing schedule on remand from this Court). Because the Tenth Circuit’s decision in *Vincent* will govern the outcome of Mr. Mayfield’s appeal, Mr. Mayfield respectfully requests that this Court grant, vacate, and remand his case as well for reconsideration in light of *Rahimi* and the new Tenth Circuit opinion expected to be issued in *Vincent*.

### CONCLUSION

For the forgoing reasons, Mr. Mayfield requests that this Court grant his petition for a writ of certiorari, vacate the underlying judgment, and remand for reconsideration by the Tenth Circuit in light of *Rahimi* and that circuit’s pending decision in *Vincent v. Garland*.

Respectfully submitted,

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September 5, 2024