

No. 24-6102

IN THE SUPREME COURT OF THE UNITED STATES

CLEATE WILSON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record
Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

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Petitioner contends (Pet. 10-17) that 18 U.S.C. 922(g)(1), the federal statute that prohibits a person from possessing a firearm if he has been convicted of “a crime punishable by imprisonment for a term exceeding one year,” ibid., violates the Second Amendment. In United States v. Rahimi, 602 U.S. 680 (2024), this Court clarified the methodology for determining whether a firearms regulation complies with the Second Amendment. Since issuing that decision, the Court has granted certiorari in multiple cases presenting the question whether Section 922(g)(1) violates the Second Amendment, vacated the decisions below, and remanded for further consideration in light of Rahimi. See, e.g., Canada

v. United States, No. 24-5391, 2024 WL 4654952 (Nov. 4, 2024); Talbot v. United States, No. 24-5258, 2024 WL 4654945 (Nov. 4, 2024); Hoefl v. United States, No. 24-5406, 2024 WL 4654946 (Nov. 4, 2024).

The court of appeals issued its decision in this case after Rahimi. But the court explained that was bound by its decision in United States v. Dubois, 94 F.4th 1284 (11th Cir. 2024), see Pet. App B2 -- which the government has acknowledged should be vacated and remanded in light of Rahimi, see Gov't Mem. at 1-2, Dubois v. United States, No. 24-5744 (Dec. 12, 2024). Vacatur and remand would thus be warranted here if petitioner had properly preserved his Second Amendment claim below.

This Court has, however, consistently denied petitions for writs of certiorari raising Second Amendment challenges to Section 922(g)(1) when the petitioners have failed to preserve their claims in the lower courts. See, e.g., Trammell v. United States, No. 24-5723, 2024 WL 4743152 (Nov. 12, 2024); Chavez v. United States, No. 24-5639, 2024 WL 4655071 (Nov. 4, 2024); Dorsey v. United States, No. 24-5623, 2024 WL 4655064 (Nov. 4, 2024). Petitioner did not preserve his Second Amendment claim in the district court. See Gov't C.A. Br. 4; see also Pet. 7-8 (explaining that petitioner pleaded guilty without a plea agreement and raised his constitutional challenges to Section 922(g)(1) on appeal).

Accordingly, consistent with this Court's practice in other cases, the Court should deny the petition for a writ of certiorari.*

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General

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* The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.