No. _____

In the Supreme Court of the United States

KEVIN DWAYNE WOODS, JR.,

Petitioner,

vs.

STATE OF IOWA,

Respondent.

On Petition For A Writ Of Certiorari
To The United States Supreme Court

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

Whether, consistent with the Second Amendment to the U.S. Constitution, a state may criminalize possessing a firearm while possessing a user quantity of marijuana without an individualized showing of dangerousness.

RELATED PROCEEDINGS

I. *Iowa v. Kevin Dwayne Woods Jr.*, Polk County, Iowa No. SRCR372647; Judgment entered January 1, 2024.

II. *Iowa v. Kevin Dwayne Woods*, Iowa Supreme Court No. 24-0261; Judgment affirmed June 27, 2025.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Kevin Dwayne Woods Jr. respectfully petitions for a writ of certiorari to review the judgment of the Iowa Supreme Court in this matter.

OPINIONS BELOW

The Honorable Gregory D. Brandt, District Associate Judge for the Fifth Judicial District of Iowa, issued an order denying Kevin Woods' motion to dismiss on May 15, 2023. (*Iowa v. Woods*, Polk County, Iowa No. SRCR372647, Order denying Motion to Dismiss, Appx. A-81; *Iowa v. Woods*, Polk County, Iowa No. SRCR372647, Transcript of Hearing on Motion to Dismiss, Appx. A-83). Mr. Woods then entered a conditional guilty plea reserving the right to appeal the denied motion to dismiss, and was sentenced on January 24, 2024. *Iowa v. Woods*, Polk County, Iowa No. SRCR372647, Disposition Ord., A-76).

On June 27, 2025, the Iowa Supreme Court issued a split opinion affirming the denial of the motion to dismiss under the Second Amendment to the U.S. Constitution. *Iowa v. Woods,* 23 N.W.3d 258 (Iowa 2025). (A-3).

JURISDICTION

Jurisdiction of the district court was pursuant to Iowa Code § 602.6306(2). Jurisdiction of the Iowa Supreme Court was pursuant to Iowa Code § 602.4102(1)-(3). This Court has jurisdiction pursuant to 28 U.S.C. §1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS

Second Amendment to the United States Constitution

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.

Iowa Code § 724.8B

A person determined to be ineligible to receive a permit to carry weapons under section 724.8, subsection 2, 3, 4, 5, or 6, a person who illegally possesses a controlled substance included in chapter 124, subchapter II, or a person who is committing an indictable offense is prohibited from carrying dangerous weapons. Unless otherwise provided by law, a person who violates this section commits a serious misdemeanor.

STATEMENT OF THE CASE

Mr. Woods was charged by trial information with one count of possession of a controlled substance (marijuana), a serious misdemeanor in violation of Iowa Code § 124.401(5), and one count of person ineligible to carry dangerous weapons, a serious misdemeanor in violation of Iowa Code § 724.8B.

The charges arose from a commercial vehicle inspection on July 31, 2023. Mr. Woods was driving a company vehicle, pulling a company trailer on his way to work, around 6:00 a.m. The arresting officer observed a nonfunctioning taillight and pulled Mr. Woods over. Because it was a commercial vehicle, the officer asked Mr. Woods for the annual inspection reports. Mr. Woods called his boss to assist him in finding these documents, and the officer began his inspection.

During the inspection, the officer observed a THC vape pen in the center console. He did not say anything and continued his inspection, even asking Mr. Woods to participate in the inspection by testing the parking brakes. The officer then informed Mr. Woods that he would search him and the vehicle due to the "smell of marijuana." Mr. Woods informed the officer that he had a second THC vape pen in his pocket, and that there was additional marijuana, a pistol, and ammunition in his backpack. The marijuana was undisputably a personal-use quantity. Mr. Woods was not under the influence of marijuana or any other substance at the time of his arrest; the arresting officer indicated his condition as "sober" in the inspection report.

REASONS RELIED ON FOR ALLOWANCE OF THE WRIT

The Iowa Supreme Court has decided an important question of federal law that conflicts with relevant decisions of this Court and the Eighth Circuit Court of Appeals.

The Second Amendment 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.

U.S. CONST. AMEND. II. In *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022) and *United States v. Rahimi*, 602 U.S. 680 (2024), this Court established and clarified a two-part test for resolving whether a particular statute violates an individual's Second Amendment rights. First, the challenger must demonstrate that "the Second Amendment's plain text covers" his conduct. *Bruen*, 597 U.S. at 17. If Then, the burden shifts to the State to prove that the restriction "is consistent with the Nation's historical tradition of firearm regulation." *Id.* This pair of decisions reaffirmed the track this Court has followed since at least 2008. *See, e.g. District of Columbia v. Heller*, 554 U.S. 570, 635 (2008) ("The very enumeration of the right takes out of the hands of government – even the Third Branch of Government – the power to decide on a case-by-case basis whether the right is *really worth* insisting upon."); *McDonald v. City of Chicago*, 561 U.S. 742, 790-97 (2010) (The Second Amendment neither permits nor requires "judges to assess the costs and benefits of firearms restrictions and thus to make difficult empirical judgments in an area in which they lack expertise."). The *Bruen/Rahimi* test ensures that individuals are not disarmed by the whims of popular political opinion or legislative convenience, and that the right to bear arms maintains its prized position in the Bill of Rights.

The Iowa Supreme Court held that Mr. Woods' Second Amendment rights were not violated when he was criminally charged for possessing a firearm while simultaneously possessing marijuana. *State v. Woods*, 23 N.W.3d 258 (Iowa 2025) (A-3). In doing so, the Iowa Supreme Court misconstrued and misapplied the relevant Second Amendment tests as established in *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022) and *United States v. Rahimi*, 602 U.S. 680 (2024), focusing on dicta about "the people" that this Court has explicitly disavowed. The *Woods* opinion is also inconsistent with the Eighth Circuit Court of Appeals' application of the *Bruen/Rahimi* rule, as set out in *United States v. Cooper*, 127 F.4th 1092 (8th Cir. 2025). The Iowa Supreme Court did not attempt to apply *Cooper* to Mr. Woods' case, despite Mr. Woods' bringing it to the Court's attention through a supplemental authority letter. This inconsistent result calls for the exercise of this Court's supervisory power and authority as the last word on the meaning of the United States Constitution

The *Woods* decision produced no majority. Three of seven justices (the "plurality") held that Mr. Woods failed step one because he was not a law-abiding citizen and thus his conduct was not protected. 23 N.W.3d at 264-69 (A-8–9). The concurring opinion, authored by one justice (the "concurrence"), held that Mr. Woods failed step one because he failed to show he possessed his firearm for a lawful *purpose*. *Id.* at 284 (A-47). Finally, the plurality held that the prohibition on carrying a firearm by those also possessing a personal amount of marijuana was consistent with the Nation's history and tradition of firearms regulations. *Id.* at 269-75 (A-16–25). "When

there is no majority opinion, the narrower holding controls." *Book v. Doublestar Dongfeng Tyre Co., Ltd.*, 860 N.W.3d 576, 592 (Iowa 2015) (quoting *Panetti v. Quarterman*, 551 U.S. 930, 949 (2007)). Despite the court's labels, the concurrence is the narrowest holding, because it does not go on to reach additional federal questions (the history and tradition test) and its scope is not as far-reaching as the plurality's ("There is no federal . . . constitutional right to carry a firearm while criming." [sic]). The concurrence controls. Although the plurality is not controlling, Mr. Woods addresses both the plurality and the concurrence. Both opinions are wrong and inconsistent with this Court's guidance in *Bruen/Rahimi* and the Eighth Circuit's clarifications in *Cooper*.

A. Mr. Woods' conduct was protected by the Second Amendment

The first step in the *Bruen* analysis is determining whether the Second Amendment is triggered at all. *Bruen*, 597 U.S. at 31-32. To resolve this issue in *Bruen*, this Court considered three questions: (1) were petitioners part of "the people" protected by the Second Amendment, (2) were they carrying "arms,"[1] and (3) were their proposed courses of conduct covered by the Second Amendment. *Id.* The plurality opinion excluded Mr. Woods from "the people" at step one, question one, because he possessed marijuana and therefore was not "law-abiding." *Woods*, 23 N.W.3d at 264-265 (A-8–9). The concurrence concluded Mr. Woods' conduct was not protected at step one, question three, because he did not show that he carried a

[1] Step 1, question 2 is not in dispute, as Mr. Wood's handgun is undoubtedly one of the "arms" protected by the Second Amendment. *Heller*, 554 U.S. at 629 ("[H]andguns are the most popular weapon chosen by Americans for self-defense.").

firearm for a lawful purpose. *Id.* at 280 ("This is a critical qualifier: carrying a firearm is beyond the protection of the Second Amendment when it is done *for* an unlawful purpose.") (A-36).

1. Mr. Woods's sober possession of personal-use marijuana does not exclude him from "the people."

In *Bruen*, the answer to the first question was easy: petitioners were ordinary, law-abiding citizens, plainly covered by the Second Amendment text, and therefore part of "the people." But by answering the question in *Bruen*, the Court did not exclude less-than-exemplary persons from "the people." In *Rahimi*, this Court made clear that the "law-abiding" language in *Bruen* was dicta:

> Finally, in holding that Section 922(g)(8) is constitutional as applied to Rahimi, we reject the Government's contention that Rahimi may be disarmed simply because he is not 'responsible.' 'Responsible' is a vague term. It is unclear what such a rule would entail. *Nor does such a line derive from our case law.* In *Heller* and *Bruen*, we used the term 'responsible' to describe the class of ordinary citizens who undoubtedly enjoy the Second Amendment right. *See, e.g. Heller*, 554 U.S. at 635; *Bruen*, 597 U.S. at 70. But those decisions did not define the term and said nothing about the status of citizens who were not 'responsible.' The question was simply not presented.

602 U.S. at 701-02 (emphasis added); *see also Heller*, 554 U.S. at 581 (the term "the people" "unambiguously refers to all members of the political community, not an unspecified subset."); *Bruen*, 597 U.S. at 70 (the Second Amendment protects a right "guaranteed to all Americans,"); *Rahimi*, 602 U.S. at 708 (Gorsuch, J., concurring, "In this case, no one questions that the law Mr. Rahimi challenges individual conduct covered by the text of the Second Amendment,"); 752 (Thomas, J., dissenting, "It is also undisputed that the Second Amendment applies to Rahimi. . . . Since Rahimi is a member of the political community, he falls within the Second Amendment's

guarantee."). Given the context of Mr. Rahimi's conviction, there is no distinction between the words "responsible" and "law-abiding." Mr. Rahimi was clearly neither.[2] But he remained a part of "the people" protected by the Second Amendment.

Simply put, "the people" cannot be read to exclude those who engage in criminal activity. The Bill of Rights uses the phrase "the people" five times, in the First, Second, Fourth, Ninth, and Tenth Amendments. Clearly, a person engaged in a crime retains their First[3] and Fourth[4] Amendment rights. Inmates retain their First[5] and Fourth Amendment[6] rights. "The Second Amendment is not 'a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees.'" *Bruen*, 597 U.S. at 70 (quoting *McDonald v. City of Chicago*, 561 U.S. 742, 780 (2010)).

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[2] *Rahimi*, 602 U.S. at 686-88 (describing Mr. Rahimi's frankly alarming use of his firearm despite various court and law enforcement interventions).

[3] *See, e.g.*, *Brandenburg v. Ohio*, 395 U.S. 444 (1968) (First Amendment protects a speaker's right to advocate for illegal activity); *Watts v. United States*, 394 U.S. 705 (1969) (First Amendment protects threatening language used in political hyperbole); *Counterman v. Colorado*, 600 U.S. 66 (2022) (While "true threats" are not protected speech, the First Amendment requires strategic protection of unprotected speech to prevent the State from chilling protected speech with the threat of criminal prosecution).

[4] *Mapp v. Ohio*, 367 U.S. 643 (1961) (applying the Fourth Amendment exclusionary rule against the States as an important method for protecting the Fourth Amendment guarantee of privacy against government intrusion, despite the societal harms caused by the guilty going free).

[5] *Bell v. Wolfish*, 441 U.S. 520 (1979) (holding in part that a prison rule that restricted inmates' access to hardback books triggered the inmates' First Amendment rights).

[6] *Florence v. Bd. of Chosen Freeholders of Cnty. of Burlington*, 566 U.S. 318 (2012) (applying the Fourth Amendment framework applicable in a correctional setting).

Other Courts have understood the term "the people" to include marijuana users and individuals who have committed a crime. In *Fla. Comm'r of Ag. v. Att'y Gen.*, __ F.4th __, No. 22-13893, 2025 WL 2408432 (11th Cir. Aug. 20, 2025), the Government argued that petitioners were not part of "the people" because they were violating federal marijuana possession laws. Petitioners were residents of the State of Florida who participated or desired to participate in Florida's medical marijuana program. *Id.* at *2. While their possession and use of THC products would not violate Florida law, it would render them unlawful users of a controlled substance and, therefore, prohibited firearms possessors under 18 U.S.C. § 922(g)(3). *Id.* at *1-2. Citing *Rahimi*, the Eleventh Circuit held there was no authority to exclude misdemeanants or drug users from "the people" protected by the Second Amendment. *Id.* at *6.

The Third, Fourth, Fifth, Sixth, Eighth, Tenth, and Eleventh Circuits have each recognized that drug users are part of "the people." *Range v. Att'y Gen.*, 124 F.4th 218, 226-28 (3d Cir. 2024) (en banc); *United States v. Daniels*, 124 F.4th 967, 972 (5th Cir. 2025); *United States v. VanOchten*, __ F.4th __, No. 23-1901, 2025 WL 2268042, at *4 (6th Cir. Aug. 8, 2025); *Cooper*, 217 F.4th at 1094; *United States v. Harrison*, __ F.4th__, No. 23-6028, 2025 WL 2452293, at *9 (10th Cir. Aug. 26, 2025); *Fla. Comm'r of Ag.*, 2025 WL 2408432 at *6.

Even cases affirming gun restrictions have stopped short of concluding that felons and those with domestic violence convictions are not part of "the people" protected by the Second Amendment. Each of these hold that the

petitioner/defendant's status was relevant only to the second part of the *Bruen* analysis.[7] *See Zherka v. Bondi*, 140 F.4th 68, 77 (2d Cir. 2025); *United States v. Diaz*, 116 F.4th 458, 466-67 (5th Cir. 2024); *United States v. Duarte*, 137 F.4th 743, 753 (9th Cir. 2025).

The plurality ignored *Rahimi's* clear rejection of this argument. It elevated the dicta explicitly disallowed in *Rahimi* to the level of holding. *Woods*, 23 N.W.3d at 264 ("The federal constitutional right is 'not a right to keep an carry any weapon whatsoever in any manner whatsoever and for whatever purpose.' Instead, it is a limited right of *responsible, law-abiding citizens* to keep and bear arms when engaged in *lawful* conduct. The Supreme Court has made this crystal clear." (citing *Bruen*, 597

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[7] This methodology was proposed by then-Judge Amy Coney Barrett in her dissenting opinion in *Kanter v. Bondi*, 919 F.3d 437 (7th Cir. 2019):

> There are competing ways of approaching the constitutionality of gun dispossession laws. Some maintain that there are certain groups of people – for example, violent felons – who fall entirely outside the Second Amendment's scope. Others maintain that all people have the right to keep and bear arms, but that history and tradition support Congress's power to strip certain groups of that right. These approaches will typically yield the same result; one uses history and tradition to identify the scope of the right, and the other uses that same body of evidence to identify the scope of the legislature's power to take it away.
>
> In my view, the latter is the better way to approach the problem. It is one thing to say that certain weapons or activities fall outside the scope of the right. It is another thing to say that certain *people* fall outside the Amendment's scope. Arms and activities would always be in or out. But a person could be in one day and out the next: the moment he was convicted of a violent crime or suffered the onset of mental illness, his rights would be stripped as a self-executing consequence of his new status. No state action would be required.

Id. at 451-52 (citations omitted).

U.S. at 8-9)) (A-8). It conflated Mr. Woods' conduct with his personhood. Mr. Woods' sober possession of a user quantity of marijuana should have been addressed at step two of the *Bruen/Rahimi* analysis. *Kanter*, 919 F.3d at 451-52 (Barrett, J., dissenting). The plurality's broad conclusion that there is no right to possess a firearm while committing *any* crime does violence to the Second Amendment, and is unsupported by any federal case law applying the *Bruen/Rahimi* test. Under the plurality's test, one can be criminally punished because they possessed a firearm while driving while barred, committing tax fraud, pirating a movie, or any other non-confrontational offense that a state happens to criminalize. There is no line – the State would be free to penalize someone possessing a firearm while speeding, or failing to signal a turn. Such a broad rule would allow the States to legislate the Second Amendment out of existence.

2. No evidence established that Mr. Woods possessed a firearm for an unlawful purpose.

At step one, question three of the *Bruen/Rahimi* analysis, the concurrence opined that it was not Mr. Wood's status as a *possessor* of marijuana that controlled the outcome, but the *uses* to which he might put his firearm. The concurrence presumed that, because he was possessing marijuana, Mr. Woods necessarily "engaged in the conduct of carrying a firearm *for* an illegal purpose." *Woods*, 23 N.W.3d at 282 (Oxley, J., concurring) (A-40). While the burden is on Mr. Woods at the first step of the *Bruen/Rahimi* analysis, the concurrence elevates Mr. Woods' burden beyond this Court's precedent. The Second Amendment plainly protects individuals' right to carry firearms in public for self-defense. *Bruen*, 597 U.S. at 33; *see also*

Cooper, 127 F.4th at 1098-99 ("[I]ndividual self-defense is 'the central component' of the Second Amendment right, not an exception to it."). It is contrary to Second Amendment principles to presume that an individual carrying a firearm means mischief or violence. *Id.* at 32-33 (elaborating on an extensive right to go armed in case of conflicts). It is the *use* of a firearm, not the presence of a firearm, that triggers liability. Self-defense is protected Second Amendment conduct; assault is not. There was no reason to think, on the facts of this case, that Mr. Woods would use his firearm in furtherance of possessing marijuana. The firearm was secured in a backpack, with no rounds chambered. He went out of his way *not* to use his firearm to evade capture or detection, cooperating fully with the commercial vehicle investigation and alerting the officer to the presence of a firearm.

In reaching its sweeping decision that there could be no lawful purpose in possessing marijuana and carrying a firearm, the concurrence focused on federal firearms laws that punish possessing a firearm *in connection with drug trafficking*. *Woods*, 23 N.W.3d at 257-58 (A-44–47). The comparison does not survive close scrutiny. A conviction under 18 U.S.C. § 924(c) requires the government to prove a nexus between the firearm and the drug trafficking. *See, e.g. United States v. Chavez*, 549 F.3d 119, 131 (2d Cir. 2008) ("The government does not establish that a firearm was possessed in furtherance of drug trafficking merely by relying on the proposition that drug dealers generally use guns to protect themselves and their drugs, and thus that any time a gun is possessed by a drug dealer it is possessed in furtherance of his drug offenses."); *United States v. Moore*, 769 F.3d 264, 269-70 (4th Cir. 2014) (Nexus

can be established from "the type of drug activity that is being conducted, accessibility of the firearm, the type of weapon, whether the weapon is stolen, the status of the possession (legitimate or illegal), whether the gun is loaded, proximity to drugs or drug profits, and the time and circumstances under which the gun is found."). No federal court has seriously entertained a constitutional challenge to 18 U.S.C. § 924(c), because it regulates how a firearm is used to commit another crime. It is well established that the Second Amendment does not protect the use of firearms (or any weapon, for that matter) to aid or assist in the commission of a crime. *See, e.g. United States v. Underwood*, 129 F.4th 912, 929 (6th Cir. 2025) ("An individual who uses a firearm . . . as proscribed by § 924(c)(1)(A) is not bearing arms *for a lawful* purpose. Indeed, such a person is specifically bearing arms to promote unlawful ends."). But Courts throughout the country are considering challenges to 18 U.S.C. § 922(g)(3), when there is nothing more than a temporal connection between use of marijuana and possession of a firearm. *Fla. Comm'r of Ag.*, 2025 WL 2408432 at *6; *Range*, 124 F.4th at 226-28; *Daniels*, 124 F.4th at 972; *VanOchten*, 2025 WL 2268042, at *4; *Cooper*, 217 F.4th at 1094; *Harrison*, 2025 WL 2452293, at *9. Iowa Code § 724.8B requires no greater nexus between the firearm and the marijuana than 18 U.S.C. § 922(g)(3).

The comparison to the federal sentencing guideline enhancements for possessing a firearm "in connection with" a drug offense under U.S.S.G. § 2D1.1(b)(1) also fails. *Cf. United States v. Alaniz*, 69 F.4th 1124, 1126 (9th Cir. 2023). Iowa Code § 724.8B is not relevantly similar to the federal sentencing guidelines that provide an

enhancement for using a firearm to further a crime. The Guidelines' sentencing enhancements are not binding on the federal courts. They constitute a recommendation for an appropriate sentence, essentially, factors to be considered at sentencing under 18 U.S.C. § 3553(a) and how much weight to give those factors. Iowa Code § 724.8A is not a sentencing enhancement; it is a standalone offense that carries up to a year in jail. And it does not require the state to prove any nexus between the firearm and the controlled substance beyond time of possession. The presumption that a firearm made Mr. Woods' possession of a user quantity of marijuana more dangerous is too tenuous to sustain. *Cf. Chavez*, 549 F.3d at 130 ("A gun may, of course, be possessed for any number of purposes, some lawful, others unlawful . . . the government must establish the existence of a specific nexus between the charged firearm and the drug trafficking crime.").

The concurring opinion erred in broadly holding that firearms can never be possessed for a lawful purpose when marijuana is involved. Like the plurality decision, the concurrence collapsed a step two question – is the regulation consistent with the Nation's history and tradition? – into step one. Mr. Woods was carrying a firearm for self-defense. The only question the Iowa Supreme Court needed to answer was whether Iowa Code § 724.8B was supported by history and tradition under step two of the *Bruen* analysis. *Kanter*, 919 F.3d at 451-52 (Barrett, J., dissenting)

B. Disarming sober individuals who possess a firearm while possessing a user quantity of marijuana is not consistent with the Nation's history and tradition of firearms regulation.

At step two of the *Bruen/Rahimi* analysis, the burden shifts to the Government to "affirmatively prove that its firearm 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 issue is not whether there is a compelling reason for disarming someone, but whether there is a valid historical basis for doing so. *Id.* at 29, n.7. The Court must "ascertain whether the new law is 'relevantly similar' to laws that our tradition is understood to permit, 'apply[ing] faithfully the balance struck by the founding generation to modern circumstances.'" *Rahimi*, 602 U.S. at 692 (citing *Bruen*, 597 U.S. at 29). The "why and how" of firearms regulations are "central to this inquiry." *Id.* (citing *Bruen*, 597 U.S. at 29).

Iowa Code § 724.8B is a disarmament statute like 18 U.S.C. § 922(g)(3). While the statutes differ in their elements, the effect is the same. Section 922(g)(3) targets those who use controlled substances while § 724.8B targets those who possess controlled substances. Someone who uses marijuana has necessarily possessed marijuana. Section 724.8B clearly covers marijuana possessed for personal use, as there is no requirement for the government to prove the defendant intended to distribute the marijuana. And unlike its federal counterpart, § 724.8B requires no proof that the defendant is presently or habitually intoxicated. Iowa Code § 724.8B targets inherently less dangerous conduct than 18 U.S.C. § 922(g)(3).

1. The State failed in its burden to show a relevantly similar historic justification.

It is the state's burden to show that a modern firearm restriction is consistent with a historical restriction. *Bruen*, 597 U.S. at 19. Before the Iowa Supreme Court, the state of Iowa focused on one historical analogue: the tradition of disarming Catholics, slaves, and other out-groups perceived by the majority to be dangerous.

(Appellee Br. 42-46). These statutes do not set a particularly compelling example. Justice Thomas said it best: "the law-abiding, dangerous citizen test is the Government's own creation, designed to justify every one of its existing regulations. It has no doctrinal or constitutional mooring." *Rahimi*, 602 U.S. at 773-74 (Thomas, J., dissenting). Any person can be labeled "dangerous" by the government. The Second Amendment protects against arbitrary labels. If the Catholic disarmament laws set a good example, today's Congress may engage in creative legislative factfinding to disarm Jews, Mormons, or any other "out group" of the moment. No one believes that legislation would be constitutional.

However, assuming that the founding-era disarmament statutes cited by the State are instructive, the federal courts have rejected them as a relevant comparator for § 922(g)(3). The Fifth Circuit outright rejected the comparison between the founding-era disarmament statutes and § 922(g)(3): "The Founders did not disarm English Loyalists because they were believed to lack self-control; it was because they were viewed as political threats to our nascent nation's integrity." *United States v. Connelly*, 117 F.4th 269, 278 (5th Cir. 2024). Section 922(g)(3) and, by extension, § 724.8B, do not target individuals believed to be political threats. The "why" for Catholic disarmament and drug user disarmament was not a close enough match. *See, e.g. Rahimi*, 602 U.S. at 692 (The law need not be a "dead ringer" with its historical counterpart, but must still be "analogous enough to pass constitutional muster.").

The Tenth Circuit and Sixth Circuits also rejected the comparison. Both held

that laws disarming Catholics and insurrectionists were not relevantly similar to disarm drug users *per se*. *Harrison*, 2025 WL 2452293, at *18; *VanOchten*, 2025 WL 2268042 at *4-5. Those laws shared the same "why" as § 922(g)(3) in the sense that they were both concerned with a future risk of harm. *Harrison*, 2025 WL 2452293, at *18; *VanOchten*, at *4-5. But the "how" did not fit, because not every drug user is dangerous. To justify disarmament, the courts therefore required an individualized determination of whether the appellants presented a risk of danger to justify disarming them. *Harrison*, 2025 WL 2452293 at *25-26 (remanding for an individualized determination); *VanOchten*, 2025 WL 2268042 at *8 (acknowledging the district court's determination that Mr. VanOchten had been acting dangerously and was under the influence at the time of his arrest); *see also United States v. Baxter*, 127 F.4th 1087 (8th Cir. 2025) (remanding § 922(g)(3) case for individualized fact finding as to danger arising from particular defendant's use of marijuana and possession of a firearm).

The Circuits that have been faced with this argument under § 922(g)(3) agree that Catholic disarmament laws do not wholly justify a categorical ban like in the § 922(g)(3) context. Had the plurality opinion conducted the analysis required by *Bruen*, it would have come to the same conclusion as it relates to § 724.8B. Mr. Woods should have been permitted an individualized determination that he was actually dangerous. The record clearly indicates he did not present a risk of harm to the law enforcement officer investigating him.

2. Other justifications for disarming those who possess drugs likewise fail.

When it comes to 18 U.S.C. § 922(g)(3), the government typically points to the nation's historical tradition of confining the mentally ill and criminal prohibitions on taking up arms to terrify the people. *Cooper*, 217 F.4th at 1095 (citing *United States v. Veasley*, 98 F.4th 906, 908 (8th Cir. 2024)). The Eighth Circuit in *Cooper* held that these historical analogues left broad openings for an as-applied challenge to § 922(g)(3):

> Nothing in our tradition allows disarmament simply because Cooper belongs to a category of people, drug users, that Congress has categorically deemed dangerous. Neither the confinement of the mentally ill nor the going-armed laws operated on an *irrebuttable* basis. In fact, each had an individualized assessment built in.

Id. at 1096. The *Cooper* court rejected confinement of the mentally ill as a historical basis for disarming drug users because that process involved a judicial determination of dangerousness *before* disarmament. Section 922(g)(3) does not. *Id.* And while there is a historical basis for regulating firearms use by intoxicated people, modern disarmament laws swept far more broadly, extending beyond traditional firearm use regulations to completely disarm intoxicated individuals, regardless of whether they are presently intoxicated or their intoxication causes them to be dangerous. *Id.* at 1096-97. The solution was to remand for fact-finding to determine whether Mr. Cooper's particular use of marijuana caused him to be dangerous. *Id.* at 1098-99.

If the statute targeted carrying a firearm while *distributing* marijuana, the danger would be clear, and § 724.8B would survive Second Amendment scrutiny. *Underwood*, 129 F.4th at 930 (approving regulations targeting the use of firearms "for dangerous ends."). But the State cited "no authority connecting the dots between someone possessing recreational marijuana and any risk of danger in carrying a

firearm deriving from that mere possession." *Woods*, 23 N.W.3d at 293 (McDermott, J., dissenting) (A-60). The plurality assumed that Mr. Woods bought the marijuana illegally, but all the evidence suggested it was commercially purchased in a state that had legalized marijuana. Likewise, if there was evidence connecting Mr. Woods' possession of marijuana and firearms to other dangerous activities, disarmament would be consistent with the historic tradition of confining the dangerously mentally ill. *See, e.g.*, *Cooper*, 127 F.4th at 1097 ("Sometimes disarming drug users and addicts will line up with the case-by-case historical tradition, but other times it will not."). There was no such evidence here – this was a routine commercial vehicle inspection with a cooperative and sober defendant.

The plurality's handling of the historical analysis was, once again, too broad. The plurality reasoned that commission of *any* crime was made inherently more dangerous by possession of a firearm. *Woods*, 23 N.W.3d at 269-70 (A-20–21). Here, the plurality fell into the trap identified by *Bruen* and *Rahimi* – a compelling reason for disarming people who are committing criminal offenses does not equal a historical basis for disarming people who are committing criminal offenses. Under the plurality's reasoning, *every person committing a crime can be punished for possessing a firearm*, regardless of whether that firearm furthered the crime. There is no historical analogue for this proposition. The Iowa Supreme Court ignored recent developments in the case law that have asked for a specific determination of dangerousness as to each individual defendant's possession of a firearm while possessing a controlled substance. *See, e.g. Cooper*, 127 F.4th at 1098 (remanding for

fact finding as to whether Mr. Cooper's use of marijuana made his possession of a firearm more dangerous). Iowa's limitless rule threatens to disarm untold numbers of Iowans who engage in nonconfrontational misdemeanors. The Second Amendment, as interpreted in *Bruen* and *Rahimi*, does not permit such sweeping restrictions.

CONCLUSION

The criminal sanctions of Iowa Code § 724.8B violate Mr. Woods' Second Amendment right to possess a firearm for self-defense. The Iowa Supreme Court misinterpreted and misapplied federal law in upholding the Statute. As this is an important and rapidly changing area of law, over which this Court must have the final say, Mr. Woods respectfully requests the Court grant the petition for writ of certiorari and for any further relief deemed necessary and just.

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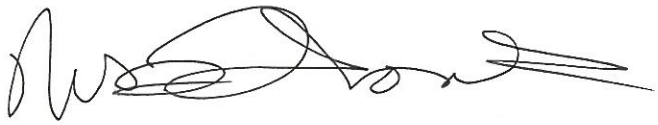

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