UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 25-1651

TYLER JON TAKER,

Plaintiff - Appellant

v.

PAMELA J. BONDI, in the official capacity as Attorney General of the United States; DANIEL PATRICK DRISCOLL, in the official capacity as Acting Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives; AARON M. FREY, in the official capacity as Attorney General of Maine; COLONEL WILLIAM G. ROSS, in the official capacity as Colonel of the Maine State Police; MARC HAGAN, individually and in the official capacity as Chief of the Topsham Police Department,

Defendants – Appellees.

On Appeal from the United States District Court for the District of Maine
No. 2:24-cv-00369, Hon. Lance E. Walker

CONSENTED-TO BRIEF OF AMICI CURIAE MAINE GUN SAFETY COALITION; MAINE COALITION TO END DOMESTIC VIOLENCE; BATTERED WOMEN'S JUSTICE PROJECT; NATIONAL NETWORK TO END DOMESTIC VIOLENCE; NATIONAL DOMESTIC VIOLENCE HOTLINE; JEWISH WOMEN INTERNATIONAL; UJIMA, THE NATIONAL CENTER ON VIOLENCE AGAINST WOMEN IN THE BLACK COMMUNITY; ASIAN PACIFIC INSTITUTE ON GENDER-BASED VIOLENCE; BRADY CENTER TO PREVENT GUN VIOLENCE; AND GIFFORDS LAW CENTER TO PREVENT GUN VIOLENCE IN SUPPORT OF DEFENDANTS-APPELLEES AND AFFIRMANCE

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CORPORATE DISCLOSURE STATEMENT

Maine Gun Safety Coalition ("MGSC"); Maine Coalition to End Domestic Violence ("MCEDV"); Battered Women's Justice Project ("BWJP"); National Network to End Domestic Violence ("NNEDV"); National Domestic Violence Hotline ("NDVH"); Jewish Women International ("JWI"); Ujima, The National Center On Violence Against Women In The Black Community ("Ujima"); Asian Pacific Institute on Gender-Based Violence ("API-GBV"); Brady Center to Prevent Gun Violence ("Brady"); and Giffords Law Center to Prevent Gun Violence ("Giffords Law Center") are non-profit corporations, have no parent corporations, do not issue stock, and have no publicly held affiliates.

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IDENTITY AND INTERESTS OF *AMICI CURIAE*[1]

Amici curiae MGSC, Brady, and Giffords Law Center (the "Gun Safety Organizations") are Maine and national non-profit organizations dedicated to reducing gun violence by educating the public and lawmakers about responsible gun ownership and by passing and defending laws designed to prevent gun violence. The Gun Safety Organizations have a substantial interest in protecting the constitutional authority of democratically-elected officials to address the gun violence epidemic in Maine and nationwide.

Amici curiae MCEDV, BWJP, NNEDV, NDVH, JWI, API-GBV, and Ujima (the "Domestic Violence Prevention Organizations") are Maine and national non-profit organizations dedicated to ending domestic violence through direct support for victims of abuse, education, training, policy analysis, and advocacy for policies that hold abusive people accountable and keep survivors safe. The Domestic Violence Prevention Organizations have a substantial interest in defending the constitutionality of laws designed to protect victims of domestic abuse in Maine and nationwide from firearm-related homicides and other forms of

[1] Pursuant to Fed. R. App. P. 29(a)(2) *Amici* state that all parties have consented to the filing of this brief. Further, pursuant to Fed. R. App. P. 29(a)(4)(E), *Amici* state that no party's counsel authored the brief in whole or in part; no party or party's counsel contributed money intended to fund preparing or submitting the brief; and no person, other than amicus or its counsel, contributed money that was intended to fund preparing or submitting the brief.

abuse involving firearms.

SUMMARY

The United States has a longstanding historical tradition of disarming individuals who pose a danger to their community. The Maine and federal laws Appellant Jon Tyler Taker ("Taker") seeks to overturn, which prohibit firearm possession by individuals convicted of felonies and by individuals subject to certain domestic violence restraining orders, fit well within that tradition and thus are constitutional under both *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. 1 (2022) and *United States v. Rahimi*, 602 U.S. 680, 715 (2024).[2] The Supreme Court's holding in *Rahimi* is conclusive: "When an individual poses a clear threat of physical violence to another, the threatening individual may be disarmed." *Rahimi*, 602 U.S. at 698.

Taker's effort to overturn the Maine and federal statutes that prohibit domestic abusers from possessing firearms is particularly disturbing given Taker's own history of domestic abuse, which reflects the critical danger generally posed

[2] Taker has also challenged certain state and federal statutes that prohibit sales of firearms and issuance of concealed handgun permits to felons and subjects of protective orders. *See* App. A27, ¶¶ 47-49 (challenging the constitutionality of 18 U.S.C. §§ 922(d)(1), (d)(8)(B)(ii), 15 M.R.S. § 394(2), and 25 M.R.S. § 2003(2)(A-2), (B)). Because Taker's challenge to these statutes is predicated on the idea that he is entitled to possess weapons despite his felony conviction and the protective order against him—and because, as discussed *infra*, that idea is incorrect—his challenge to the sales and concealed handgun statutes must fail, as the District Court held.

by armed domestic abusers. The Court here is required to take a "more nuanced approach" when assessing "unprecedented societal concerns," *Bruen*, 597 U.S. at 27. This means that the Court must assess whether the challenged statutes ban possession by people who carry a "special danger of misuse," *Rahimi*, 602 U.S. at 698. Therefore, this Court can and should take into account the extreme risk that armed domestic abusers like Taker pose to their victims and the community at large, which the challenged laws effectively address.

ARGUMENT

Taker is prohibited from possessing a firearm for two reasons. First, because he has been convicted of felony possession with intent to distribute over 200 pounds of marijuana.[3] Second, because he is subject to an Order for Protection from Abuse (the "PFA Order") stemming from the mental and physical abuse he inflicted on his former intimate partner and the mother of his child. *See* App. A145-47.

Taker nevertheless asserts that the District Court erred in dismissing his challenges to the state and federal laws that restrict him from owning a gun: 18

[3] Decisions on felony possession are appropriately left to legislatures as they have been since—and even before — the Founding. *See District of Columbia v. Heller*, 554 U.S. 570, 626 (2008)("[N]othing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons . . . ."); *see also Ferguson v. Skrupa*, 372 U.S. 726, 729 (1963) ("Under the system of government created by our Constitution, it is up to legislatures, not courts, to decide on the wisdom and utility of legislation.").

U.S.C. § 922(g)(1) and 15 M.R.S. § 393(1)(A-1)(2) (prohibiting individuals convicted of felonies from possessing firearms), and 18 U.S.C. § 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) (prohibiting individuals subject to certain domestic violence restraining orders from possessing firearms). Taker contends that there is no "relevantly similar" Founding-era analogue to a prohibition on firearm possession against a person who, like him, has been convicted of a drug-trafficking felony or is the subject of an order prohibiting his actual, attempted, or threatened use of physical force against a domestic partner or a child. *See* Appellant's Brief at 9.

As the Supreme Court explained in *Rahimi*, however, "[s]ince the founding, our Nation's firearm laws have included provisions preventing individuals who threaten physical harm to others from misusing firearms." 602 U.S. at 690. The laws Taker challenges fit neatly into the historical tradition of regulating access to firearms by dangerous persons, and the Supreme Court's previous favorable assessments of laws restricting both individuals convicted of felonies and individuals subject to certain domestic violence restraining orders from firearm possession can and should end this Court's inquiry into the constitutionality of such laws.

With respect to the state and federal laws prohibiting domestic abusers from possessing firearms, it bears emphasis that founding-era governments did not view

domestic violence as a matter of societal concern in the ways it is today. Although they are by no means the only victims of domestic violence, women have been—and remain—disproportionately impacted by it. At the time of the Founding, women had little to no legal recourse when subject to domestic abuse.[4]

As women won more equal footing over time, American society developed an "unprecedented . . . concern[]" about domestic violence. *Bruen*, 142 S. Ct. at 2132. Today, society recognizes that domestic abuse presents a grave and acute threat to individual and public safety, as well as to democracy as a whole. The presence of a firearm necessarily increases those safety concerns. *Rahimi* permits legislatures to regulate firearm possession for all individuals who pose "a clear threat of physical violence to another," including perpetrators of domestic violence. *Rahimi*, 602 U.S. at 698.

[4] See *Fulgham v. State*, 46 Ala. 143 (1871) (Alabama becoming the first state to rescind a husband's right to beat his wife); *see also, e.g.*, Jill Elaine Hasday, *Contest And Consent: A Legal History Of Marital Rape*, 88 Calif. L. Rev. 1373, 1389-90 (2000); S. Lisa Washington, *Survived & Coerced: Epistemic Injustice in the Family Regulation System*, 122 Colum. L. Rev. 1097, 1112-14 (2022). There were, however, at least some early laws providing protection against domestic violence. *See* Elizabeth Pleck, *Criminal Approaches to Family Violence, 1640-1980*, 11 Crime & Just. 19, 19-57 (1989); Laura Edwards, *"The Peace," Domestic Violence, and Firearms in the New Republic*, 51 Fordham Urb. L.J. 1 (2023).

I. The federal and state prohibitions on firearm possession by individuals convicted of felonies are permitted under the Second Amendment.

"Like most rights, the right secured by the Second Amendment is not unlimited." *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008). Under the Supreme Court's test laid out in *Bruen*, if a plaintiff shows that the Second Amendment's plain text protects an individual's conduct, the government "must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation." 597 U.S. at 17.

In *Heller*, and again in *Rahimi*, the Supreme Court made clear that "prohibitions . . . on the possession of firearms by 'felons . . . ' are 'presumptively lawful.'" *Id.* at 699 (quoting *Heller*, 554 U.S. at 626, 627 & n.26.). Relying on this principle, this Court found that the federal felony prohibitor did not violate the Second Amendment. *United States v. Torres-Rosario*, 658 F.3d 110, 113 (1st Cir. 2011). *Bruen*, as the District Court recognized, did not abrogate this principle, but rather emphasized that petitioners in that case were "ordinary, law-abiding citizens." *Bruen*, 597 U.S. at 8.

As this Court has recognized, any "argument that the legal test laid out in *Rahimi* compels the conclusion that certain applications of § 922(g)(1) violate the Second Amendment is contradicted by the text of *Rahimi* itself." *United States v. Langston*, 110 F.4th 408, 420 (1st Cir. 2024). This conclusion can and should be the end of this Court's inquiry into whether the federal and state regulations

prohibiting firearm possession by individuals who, like Taker, have been convicted of a felony are constitutional—plainly, they are.[5]

As the District Court concluded, and as the Federal and State Appellees ably argue in their briefs to this Court, history, tradition, and binding precedent confirm that Congress may disarm individuals convicted of felonies on a categorical basis. *See* App. A285, Federal Appellees' Answering Brief at 27-39; State Appellees' Answering Brief at 27-42. This Court should affirm the dismissal of Taker's challenge to the state and federal laws prohibiting firearm possession by individuals convicted of felonies for failure to state a claim.

II. The federal and state prohibitions on firearm possession by individuals subject to certain domestic violence restraining orders are permitted under the Second Amendment.

The District Court concluded that the government may categorically disarm individuals convicted of felonies without offending the Second Amendment, and therefore concluded that Taker's challenge to the federal and state prohibitions on firearm possession by individuals subject to certain domestic violence restraining orders was moot. *See* App. A286. On appeal, however, Taker maintains his challenge to the federal and state domestic violence restraining order prohibitions,

[5] As recently as March 2025, the Supreme Court recognized "keep[ing] 'guns out of the hands of criminals'" as a worthy legislative goal. *Bondi v. VanDerStok*, 604 U.S. 458, 462 (2025) (quoting *Abramski v. United States*, 573 U.S. 169, 180 (2014)).

arguing that the prohibitions do not comport with the nation's history and tradition of firearm regulation. Appellant's Brief at 21-23. Taker's arguments are wrong.

In *Rahimi*, the plaintiff challenged the entirety of 18 U.S.C. § 922(g)(8)—the federal domestic violence restraining order prohibition—as unconstitutional. *See* 602 U.S. at 693. The Supreme Court determined that Section 922(g)(8)(C)(i)—which prohibits firearm possession by an individual subject to a restraining order that includes a "finding that such person represents a credible threat to the physical safety of [an] intimate partner or child"—did not violate the Second Amendment. *Id.* However, the Court did not directly address Section 922(g)(8)(C)(ii), which similarly prohibits possession by an individual subject to a restraining order that "by its terms explicitly prohibit[s] . . . the use, attempted use, or threatened use of physical force against [an] intimate partner or child that would reasonably be expected to cause bodily injury." *Id.* Taker challenges this second prong of Section 922(g)(8)(C) and the corresponding Maine statute, 15 M.R.S. § 393(1)(D)(2).

Taker's challenge fails as a matter of law for three reasons. First, because the Supreme Court's analysis with respect to Section 922(g)(8)(C)(i) in *Rahimi* is equally applicable to Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2). Second, because Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) address the unprecedented societal concern of domestic violence. And third, because domestic abusers are an especially dangerous category of individuals whom state

and federal legislatures are well within their powers to prohibit from firearm possession. Taker can and should be constitutionally restrained from possessing a firearm.

A. The Supreme Court's favorable analysis of Section 922(g)(8)(C)(i) applies equally to Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2).

As the Court explained in *Rahimi*, "from the earliest days of the common law, firearm regulations have included provisions barring people from misusing weapons to harm or menace others." 602 U.S. at 693. Specifically, the *Rahimi* Court reviewed the history of two legal regimes that "specifically addressed firearms violence": surety laws and "going armed" laws. *Id.* at 695.

By the time of the Founding, surety laws were already "[w]ell entrenched in the common law." *Id.* States enacted their own laws in this country in or around the 1830s. *See, e.g.*, Of Proceedings to Prevent the Commission of Crimes, ch. 134, § 16, in THE REVISED STATUTES OF THE COMMONWEALTH OF MASSACHUSETTS, 748, 750 (Boston, Dutton & Wentworth 1836).

These laws required individuals who were "likely to 'breach the peace'" to "post bond before carrying weapons in public." *Bruen*, 597 U.S. at 55-56. If the individual refused to post the required bond, he would be jailed. *Rahimi*, 602 U.S. at 695. If he "did post a bond and then broke the peace, the bond would be forfeit." *Id.* These laws "could be invoked to prevent all forms of violence, including

spousal abuse"—wives could seek sureties against their husbands, and husbands against their wives. *Id.*

In addition to surety laws, the laws at the Founding also "provided a mechanism for punishing those who had menaced others with firearms" via "going armed" laws." *Id.* at 697. These laws—which existed both at common law and by statute—prohibited "riding or going armed, with dangerous or unusual weapons, [to] terrify[ ] the good people of the land," and punished violations with "forfeiture of the arms . . . and imprisonment." *Id.* (quoting 4 W. Blackstone, Commentaries on the Laws of England 149 (10th ed. 1787)).

The *Rahimi* Court explained that, "taken together, the surety and going armed laws confirm what common sense suggests: When an individual poses a clear threat of physical violence to another, the threatening individual may be disarmed." *Id.* at 698. The Court further noted that "Section 922(g)(8) . . . fits neatly within the tradition" that these legal schemes represent. *Id.* The Court did not limit this analysis to Section 922(g)(8)(C)(i)—notably, it spoke broadly about Section 922(g)(8)'s compliance with the nation's regulatory tradition, even as it limited its holding to Section 922(g)(8)(C)(i).

This, again, can and should be the end of the Court's inquiry—where the Supreme Court has already held that Section 922(g)(8) is consistent with the country's history and tradition of firearms regulation, the federal law and its Maine

equivalent are plainly constitutional. *See id.* at 691 ("[I]f a challenged regulation fits within that tradition [of historical firearms regulation], it is lawful under the Second Amendment.")

Courts that have addressed Section 922(g)(8)(C)(ii) post-*Rahimi* have reached this same conclusion. In *United States v. Combs*, the Sixth Circuit determined that "the historical tradition of surety and going-armed laws recognized in *Rahimi* applies with equal force to Section 922(g)(8)(C)(ii)," noting that "both subsections reflect the same concern about preventing those deemed physically dangerous to others from using firearms," and "both sections also limit disarmament to those found dangerous." No. 23-5121, 2024 WL 4512533, at *3 (6th Cir. Oct. 17, 2024).

This latter point bears emphasis. While Section 922(g)(8)(C)(i) relates to orders that explicitly contain a "finding that [the person subject to the order] represents a credible threat to the physical safety of such intimate partner or child," Section 922(8)(C)(ii) "establishes the same point by reasonable inference from the fact that a defendant is subject to a restraining order against such violent behavior." *Id.* (internal citation and alterations omitted). In other words, while certain orders will explicitly state a finding that the subject is dangerous, and others will make that finding implicitly, orders under both prongs of Section 922(g)(8)(C) contain a finding that the subject is likely to cause physical injury to an intimate partner or

child absent a domestic violence restraining order.[6] *See also United States v. Perez-Gallan*, 125 F.4th 204, 214 (5th Cir. 2024) (noting that "when Congress enacted § 922(g)(8), [it] legislated against the background of the almost universal rule of American law that for a temporary injunction to issue, there must be a likelihood that irreparable harm will occur," and rejecting facial challenge to Section 922(g)(8)(C)(ii) (citation omitted)).

Because the Supreme Court's analysis of Section 922(g)(8)(C)(i) in *Rahimi* applies equally to Section 922(g)(8)(C)(ii) and its Maine equivalent, this Court can and should affirm the dismissal of Taker's Second Amendment challenge to these laws.

B. Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) address the unprecedented societal concern of domestic violence.

In *Bruen*, the Court made clear that, while "[t]he law must comport with the principles underlying the Second Amendment, . . . it need not be a 'dead ringer' or a 'historical twin.'" *Rahimi*, 602 U.S. at 692 (quoting *Bruen*, 597 U.S. at 30).

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[6] *See also* Rachel Graber, MA, MSW & Jennifer M. Becker, Esq., *Addendum to* U.S. v. Rahimi*: The Advocates; Concurrence,* 17 Family & Intimate Partner Violence Quarterly 7, 18 (2024) ("A civil [domestic violence restraining order], or any order within the meaning of 922(g)(8) such as orders for pretrial conditions of release or criminal protection orders, that by its terms explicitly prohibits the respondent from using, attempting to use, or threatening to use physical force that would be reasonably expected to cause bodily injury, fulfilling the criteria of (C)(ii), demonstrates that the issuing court found sufficient credible evidence that respondent poses a clear threat of 'physical violence to another.'").

Moreover, laws "implicating unprecedented societal concerns or dramatic technological changes" should be subject to a "more nuanced approach" in determining whether they are consistent with historical tradition. *Bruen*, 597 U.S. at 27. This is because "[t]he regulatory challenges posed by firearms today are not always the same as those that preoccupied the Founders in 1791 or the Reconstruction generation in 1868." *Id.*

The Second Amendment is not "a law trapped in amber," and it "permits more than just those regulations identical to ones that could be found in 1791." *Rahimi*, 602 U.S. at 691-92. Indeed, Justice Barrett warns that "imposing a test that demands overly specific analogues has serious problems [because] . . . it forces 21st-century regulations to follow late-18th-century policy choices." *Id.* at 739 (citation omitted) (Barrett, J., concurring).

Moreover, this Court should take a more nuanced approach when assessing whether the modern laws at issue are analogous to their historical counterparts. Both the federal and state laws address an unprecedented societal concern—the scourge of domestic violence, which gives elected representatives more legislative latitude to respond.

Founding-era governments unfortunately did not understand intimate-partner violence as a societal problem in the way we do today. For most of American history, domestic violence was tolerated, and broadly permitted. Anglo-American

common law generally treated domestic violence as a private matter restricted to the realm of domestic relations. A husband had a legal right to subject his wife to physical violence if he thought that she defied his authority; it was not thought to be the place of the state to intervene to prevent this violence. *See* 1 W. Blackstone, Commentaries on the Laws Of England 442-45 (1765) ("[T]he law thought it reasonable to entrust [the husband] with this power of restraining [the wife], by domestic chastisement, in the same moderation that a man is allowed to correct his servants or children . . . and the courts of law will still permit a husband to restrain a wife of her liberty, in case of any gross misbehavior"); *see also Bradwell v. Illinois*, 83 U.S. 130, 141-42 (1872) (Bradley, J., concurring) ("The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator.").

Societal views of marital and family relations have significantly changed for the better in the intervening centuries. Society now recognizes that intimate partner violence is a threat to both individual and public safety that implicates important state interests; it is not just a "private matter between the husband and wife." Emily J. Sack, *Battered Women & the State: The Struggle for the Future of Domestic Violence Policy*, 2004 Wis. L. Rev. 1657, 1662 (2004). Modern laws came to truly reflect this reality in the late twentieth century as governments began to enact state and federal legislation aimed to protect victims of domestic violence and to hold

abusers accountable. *See, e.g.*, the Violence Against Women Act, Pub. L. No. 103-322, 108 Stat. 1796 (1994); Reva B. Siegel, *The Rule of Love: Wife Beating as Prerogative and Privacy*, 105 Yale L.J. 2117, 2170-71 (1996) (describing the shift in the government's approach to domestic violence in the late 1970s).

Beyond that, domestic violence committed with firearms has become increasingly prevalent and lethal in the modern era. At the Founding, little evidence suggests that firearms were the weapon of choice in domestic violence—perhaps because the inferior social and political status of women made such extreme forms of domestic violence less necessary to exert power and control. Today, unfortunately and often tragically, firearms violence in the domestic context is pervasive. *See United States v. Castleman*, 572 U.S. 157, 159-60 (2014) ("All too often, the only difference between a battered woman and a dead woman is the presence of a gun."); *see also id.* (noting "the presence of a firearm increases the likelihood that [domestic violence] will escalate to homicide").

Bruen recognizes that these kinds of shifts in the social and legal order have a direct bearing on the use of history. Unprecedented modern problems, *Bruen* explains, require a particularly "nuanced approach" that recognizes that "the Constitution can, and must, apply to circumstances beyond those the Founders specifically anticipated." *Id.* Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) reflect a new social understanding "in which women as well as men

are entitled to equal protection of the civil and criminal law." Joseph Blocher & Reva B. Siegel, *Guided by History: Protecting the Public Sphere From Weapons Threats Under* Bruen, 98 N.Y.U. L. Rev. 1795, 1828 (2023). The nuanced approach that *Bruen* requires takes account of this understanding and considers the tradition of firearm regulation in that light.

C. Domestic abusers as a category present a special danger of firearm misuse, and laws like Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) effectively help mitigate these dangers.

In *Rahimi*, the Court reiterated that the Second Amendment permits "the enactment of laws banning the possession of guns by categories of persons thought by a legislature to present a special danger of misuse." 602 U.S. at 698. Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) are constitutional because domestic abusers present an especially critical danger of firearm misuse in Maine and across the nation.

Firearms are inextricably linked with deadly domestic violence. *See Research at the Intersection of Intimate Partner Violence and Firearms*, Battered Women's Justice Project at 2 (2024).[7] Every 16 hours in America, a woman is killed with a firearm by an intimate partner. *Beyond Bullet Wounds: Guns In the*

[7] *Available at:* https://bwjp.org/wp-content/uploads/2024/06/Research-at-the-Intersection-of-Intimate-Partner-Violence-and-Firearms.pdf.

Hands of Domestic Abusers, Brady United Against Gun Violence at 3 (2021).[8] And direct access to guns increases by 11 times the likelihood of intimate-partner homicide of women. Chelsea M. Spencer & Sandra M. Stith, *Risk Factors for Male Perpetration and Female Victimization of Intimate Partner Homicide: A Meta-Analysis*, 21 Trauma, Violence & Abuse 1, 9 (2018). Between 1980 and 2012, most women killed by their intimate partners were killed with guns. April M. Zeoli & Amy Bonomi, *Pretty in Pink? Firearm Hazards for Domestic Violence Victims*, 25 Women's Health Issues 1, 3 (2015). This is a persistent reality.[9]

The statistics on the prevalence of intimate-partner violence with a gun in the United States are staggering. Between 2020 and 2022, an average of over 70 women *each month* were shot and killed by their intimate partners in the United States. *Guns and Violence Against Women: America's Uniquely Lethal Intimate Partner Violence Problem*, Everytown for Gun Safety (Last updated May 27, 2025)[10]; *see also The Silent Epidemic of Femicide in the United States*, Sanctuary

[8] *Available at:* https://brady-static.s3.amazonaws.com/Guns-Domestic-Violence.pdf.
[9] *See also* Emma E. Fridel & James Alan Fox, *Gender Differences in Patterns and Trends in U.S. Homicide, 1976-2017,* 6 Violence and Gender 1, 27-36 (2019); Neil Websdale et al., *The Domestic Violence Fatality Review Clearinghouse: Introduction To A New National Data System With a Focus On Firearms*, 25 Inj. Epidemiol. 6 (2019).
[10] *Available at*: https://everytownresearch.org/report/guns-and-violence-against-women/.

for Families (March 10, 2023).[11] As of 2019, nearly one million women alive in the United States have reported being shot or shot at by intimate partners, and more than 4.5 million women have reported being threatened with a gun by an intimate partner. *See* Susan Sorenson & Rebecca Schut, *Nonfatal gun use in intimate partner violence: A systemic review of the literature*, 19 Trauma Violence Abuse 4, 431-442 (2018).

Children also face a heightened risk of death at the hands of armed domestic abusers. In up to 20% of domestic homicides, the abuser also kills at least one other person, most commonly a child or other family member. April M. Zeoli & Jennifer K. Paruk, *Potential to Prevent Mass Shootings through Domestic Violence Firearm Restrictions*, 19 Criminology & Pub. Pol'y 129, 130 (2020) (citing sources). Nearly two-thirds of all child fatalities related to domestic violence involved guns. Avanti Adhia, et al., *The Role of Intimate Partner Violence in Homicides of Children Aged 2–14 Years*, 56 Am. J. Preventive Med. 38 (2019). Between 2017 and 2022 alone, at least 866 children ages 17 and younger were shot in domestic violence incidents, and 621 died as a result. Jennifer Mascia, *Dangerous Homes: Guns and Domestic Violence Exact a Deadly Toll on Kids*, TRACE (Mar. 28, 2023).[12]

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[11] *Available at*: https://sanctuaryforfamilies.org/femicide-epidemic/.
[12] *Available at:* https://www.thetrace.org/2023/03/guns-domestic-violence-child-deaths/.

Even when guns are not used to kill, they are often used as tools to "establish[ ] coercive control — a pattern of threats, violence, and humiliation used to undermine the autonomy of a partner or family member," and to even sexually abuse victims. *Beyond Bullet Wounds*, *supra*, at 7-8; *see also* Kellie R. Lynch, *Firearm Exposure and the Health of High-Risk Intimate Partner Violence Victims*, 270 Soc. Sci. Med. 11364 (Feb. 2021). In one case, the abuser placed a gun on a pillow near the victim's head while forcing the victim to have sex. *2024 Domestic Violence and Firearms Research Brief*, The National Domestic Violence Hotline in partnership with the Battered Women's Justice Project, at 14 (2024).[13] In another, the abuser went outside following an argument with his victim and fired his gun into the air to make her believe he had killed himself. *Id.* at 3. And, in yet another, the abuser shot at the victim's feet as she attempted to escape the home. *Id.* at 4.

Armed domestic abusers pose a grave threat to not only their intimate partners and children, but also society more broadly. Mass shootings and domestic violence are closely linked: more than two-thirds of mass shootings are domestic violence incidents or are perpetrated by shooters with a history of domestic violence. Lisa B. Geller, *The Role of Domestic Violence in Fatal Mass Shootings in the United States, 2014–2019*, 8 Inj. Epidemiol. (2021); *see also Beyond Bullet*

[13] *Available at*: https://bwjp.org/wp-content/uploads/2025/06/HotlineBWJP_Firearm-Survey-Research-Brief_FINAL-June-2025.pdf.

Wounds, *supra*, at 4. And in almost half of all mass shootings over the past decade, the perpetrator shot a current or former intimate partner or family member as part of the rampage. Everytown for Gun Safety Support Fund, *Mass Shootings in the United States* (last updated March 2023).[14] Mass shootings committed by abusers also result in more deaths. Zeoli, *Potential to Prevent Mass Shootings*, *supra*, at 137; *see also* Jackie Gu, *Deadliest Mass Shootings Are Often Preceded by Violence at Home*, Bloomberg (June 30, 2020), https://www.bloomberg.com/graphics/2020-mass-shootings-domestic-violence-connection/#xj4y7vzkg; Geller, *The Role of Domestic Violence in Fatal Mass Shootings in the United States, supra*, at 5.

Of great concern, domestic abusers also heighten the risk to police officers responding to domestic violence calls. A five-year study found that responding to domestic abuse accounted for the highest number of service-related fatalities for police officers. Nick Breul & Mike Keith, *Deadly Calls and Fatal Encounters: Analysis of US Law Enforcement Line of Duty Deaths When Officers Responded to Dispatched Calls for Service and Conducted Enforcement (2010–2014)*, Nat'l Law Enforcement Officers Memorial Fund at 13 (2016).[15] And 95% of law enforcement

[14] *Available at:* https://everytownresearch.org/maps/mass-shootings-in-america/.
[15] *Available at*: https://valorfiles.blob.core.windows.net/documents/Clearinghouse/COPS_NLEOMF-Deadly_Calls_Fatal_Encounters.pdf?sv=2017-04-

officer deaths when responding to domestic violence between 1996 and 2010 involved a firearm. Cassandra Kercher et al., *Homicides of Law Enforcement Officers Responding to Domestic Disturbance Calls*, 19 Injury Prevention 331 (2013).

Maine has not been spared from the nationwide trend of domestic abusers using firearms to harm and/or kill their victims. In Maine, 62% of all intimate partner homicides between 2000 and 2019 involved the use of a firearm. *See* Maine Domestic Abuse Homicide Review Panel, *13th Biennial Report – A 20 Year Lookback* at 46 (2021) ("20 Year Lookback").[16] The next most common method, stabbing, was used in only 18% of intimate partner homicides. *Id.* Over a 20-year review of domestic violence homicides in Maine, one trend has remained constant—"people who commit domestic abuse related homicide have used firearms more than any other method to kill." *Id.* at 19. Domestic violence homicides represent a substantial share of all firearm homicides in Maine—in 2022, one in three firearm homicides was the result of domestic violence. *See Annual Reporting of Firearm Fatalities and Hospitalizations*, Joint Standing Committee on Health and Human Services at 2 (Sept. 3, 2024). [17]

17&sr=b&sig=odVvV5ErkwfaY4Uim%2FK0EDA20TR1OLcyZ0oTiSF94d0%3D&se=2025-12-12T20%3A42%3A31Z&sp=r.

[16] *Available at:* https://www.maine.gov/ag/docs/DAHRP-Report-for-Posting-ACCESSIBLE.pdf.

[17] *Available at:* https://legislature.maine.gov/doc/11090.

For these reasons, Maine's Domestic Abuse Homicide Review Panel—which is made up of experts in the field—has observed that "removing firearms from dangerous individuals and/or people known to be legally prohibited from possessing firearms can enhance safety and minimize the risk of injuries and lethality," and has recommended the continued enforcement of laws requiring subjects of certain domestic violence restraining orders to relinquish their guns. 20 Year Lookback at 19.

Similarly, *amicus* MCEDV—which provides support to Maine's ten domestic violence service providers as they respond to abuse—notes that perpetrators of domestic violence "pose a significant threat to the health, safety, and wellbeing of those they abuse – and often bystanders and community members, too." *See MCEDV Dives Deep to Move Needle on Firearms and Domestic Abuse*, Maine Coalition to End Domestic Violence (July 13, 2023).[18] MCEDV has detailed the numerous methods by which Maine-based abusers who stop short of homicide nevertheless terrorize and control their partners with firearms, including by "shoving the barrel of a gun against their victims' temple and pulling the trigger only for the chamber to be empty – without the victim knowing that it was" and by "placing bullets on the kitchen counter for their victim

[18] *Available at*: https://www.mcedv.org/mcedv-dives-deep-to-move-needle-on-firearms-and-domestic-abuse/.

to see when they wake up in the morning, accompanied by a note that reads: 'I'll see you tonight.'" *Id.*

The issues presented here are not abstract; Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) are critical to protecting life and safety in Maine and nationwide. A single survivor's experience illustrates this basic point. *See* Ruth M. Glenn, *Everything I Never Dreamed: My Life Surviving and Standing Up to Domestic Violence* (2022). Ms. Glenn's husband abused her for years and was subject to a civil order of protection issued against him on her behalf. Because Section 922(g)(8) was not yet enacted, Ms. Glenn's abuser was able to legally purchase firearms. And guns made his violence even more horrific. He used a gun to threaten Ms. Glenn and their son. When his son's school reported that he was struggling academically, Ms. Glenn's husband "aimed the gun at [her], looked at [their] son, and said, 'If you bring one more F into this house, I'll kill your mother.'" *Id.* at 41. After Ms. Glenn escaped with their son, her husband found her "in the parking garage of [her] apartment complex and abducted [her] at gunpoint," *id.* at 44, holding her hostage for four terrifying hours. Ms. Glenn escaped, but a few months later, her husband found her again, shot her in the head, and left her for dead. *Id.* at 56. Miraculously, Ms. Glenn drove 200 yards for help and survived the attack, *id.* at 58-59—but her abuser fled and escaped police, and Ms. Glenn

continued to live in fear for months until her abuser turned his gun on himself and died by suicide, *id.* at 63.

Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) are crucial tools for preventing repetition of these and other horrific events. While Ms. Glenn survived her domestic abuser's firearm violence, many do not. The societal response to this tide of violence has been to seek to take firearms out of the hands of abusers before these tragedies occur. The 31 states, including Maine, that have criminal prohibitions on possession of a firearm by persons subject to qualifying domestic-violence restraining orders have seen a 13% reduction in intimate partner firearm homicide rates. April M. Zeoli et al., *Analysis of the Strength of Legal Firearms Restrictions for Perpetrators of Domestic Violence and Their Associations with Intimate Partner Homicide*, 187 Am. J. Epidemiol. 2365, 2367 (2018).

Moreover, Section 922(g)(8)(C)(ii) in particular not only permits prosecution and incapacitation of violators, but also supports law enforcement intervention to prevent violent acts. A prime example is Section 922(g)(8)'s role in apprehending the Beltway Snipers, who killed 10 people and injured 3 more in a Washington D.C.-area shooting spree with the ultimate goal of killing the primary sniper's former spouse. Neal Augenstein, *Ex-wife of Beltway sniper shares story of*

domestic abuse on Valentine's Day, WTOP News (Feb. 14, 2020).[19] Section 922(g)(8) was pivotal to the snipers' arrest: after following a lead to the primary sniper's former spouse, federal agents discovered that the primary sniper possessed a gun despite the fact that his former spouse had obtained a qualifying domestic-violence restraining order against him. This "enabled [them] to charge him with federal weapons violations" and secure an arrest warrant under Section 922(g)(8). Federal Bureau of Investigation, *Beltway Snipers*;[20] *see* Crim. Compl., Braga Aff. ¶ 17, *United States* v. *Muhammad*, No. 02-3187 (D. Md. Oct. 29, 2002).[21] The arrest in the federal system ensured that the United States was able to detain and prosecute the defendants.

D. Taker can and should be constitutionally restrained from possessing a firearm.

On appeal, Taker claims that even if dangerous individuals may generally be prohibited from firearm possession, Taker himself "cannot plausibly be deemed so dangerous as to warrant a permanent ban on firearm possession." Appellant's Brief at 28. Taker brushes off the PFA Order entered against him by the Portland District Court, claiming that court made "no finding that Taker actually represents a credible threat to the physical safety of any person," that the PFA Order was issued

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[19] *Available at*: https://wtop.com/local/2020/02/ex-wife-of-beltway-sniper-shares-story-of-domestic-abuse-on-valentines-day/.
[20] *Available at:* https://www.fbi.gov/history/famous-cases/beltway-snipers.
[21] *Available at*: https://vault.fbi.gov/SNIPEMUR.

merely "on the self-serving statement of the applicant" detailing Taker's abuse, and that "the court neither expressly nor implicitly found that any of the [applicant's] allegations were, in fact, true." *Id.* at 11, 21. In Taker's view, he is the subject of mere *allegations* of a threat of danger, which are insufficient to form a constitutional basis to prohibit him from possessing firearms. *Id.* at 34.

Taker fundamentally mischaracterizes the nature of domestic violence restraining orders generally and Maine's Protection from Abuse ("PFA") process specifically. Because of the uniquely complicated dynamics of domestic violence, victims often do not pursue criminal charges out of fear of retaliation or manipulation by their abuser. *See* National District Attorneys Association, *National Domestic Violence Prosecution Best Practices Guide* (last revised June 23, 2020).[22] As a result, 80 percent of victims in criminal domestic violence cases "minimiz[e] the incident, deny[] it happened, fault[] . . . [themselves], or refus[e] to participate in prosecution," making it particularly difficult to prosecute and ultimately convict domestic abusers. *Id.* Accordingly, victims who are reluctant to cooperate in criminal prosecutions often rely on civil domestic violence restraining orders as a critical avenue to safety. *Id.*

[22] *Available at*: https://ndaa.org/wp-content/uploads/NDAA-DV-White-Paper-FINAL-revised-June-23-2020-1.pdf.

Maine's PFA process was designed specifically "to allow family and household members *who are victims of domestic abuse* to obtain expeditious and effective protection against further abuse." 19-A M.R.S. § 4101. Taker's former intimate partner was eligible to seek relief under the PFA statute only if she was a "victim of abuse" or certain other dangerous conduct. *See* 19-A M.R.S. § 4103. By granting relief to Taker's former intimate partner—first in the form of an *ex parte* Temporary Order for Protection from Abuse, and then in the form of the final PFA Order—the Portland District Court implicitly found that Taker's former intimate partner was a victim of abuse at the hands of Taker. *See* App. A.93-108. And, by prohibiting Taker from using physical force against his former intimate partner, the Portland District Court implicitly found there was a risk that Taker would otherwise use such physical force.

Taker relies upon the fact that the Portland District Court made no specific finding of abuse in the PFA Order to argue that he poses no danger. But the Portland District Court was not required to make specific factual findings of abuse, because Taker *agreed* that his former intimate partner was entitled to relief under the PFA statute—that is, the PFA Order protecting her from further abuse by Taker. *See* App. A93-96. Had Taker possessed credible evidence to discredit his former intimate partner's abuse allegations, he had every opportunity to present that evidence at a hearing. *See id.* A93 (noting Taker had "due notice and

opportunity for full hearing"). He presented no such evidence. Taker's decision to forgo mounting a defense and instead agree to the entry of the PFA Order against him cannot reasonably now be cause to conclude that he presents no danger.

The Portland District Court determined—and Taker agreed—that Taker's former intimate partner was "entitled to an order of protection" against Taker. *Id.* Moreover, the Portland District Court concluded that it was necessary to require Taker to immediately relinquish any firearms in his possession to law enforcement, and to authorize law enforcement to search Taker's residence to ensure all such firearms had been relinquished. *Id.* A94. In other words, the Portland District Court concluded that Taker represented a credible threat to his victim, and that his victim required protection in the form of Taker's disarmament.

* * *

Section 922(g)(8)(C)(ii) and 15 M.R.S. § 393(1)(D)(2) are critical tools to address a concern for domestic violence victims that was inconceivable to the Founders. These laws follow a long history and tradition of laws disarming individuals who, like Taker and other domestic abusers, present a special risk of misuse of firearms. Accordingly, the Court should affirm the dismissal of Taker's challenge to these laws.

CONCLUSION

For the foregoing reasons and the reasons articulated in Appellees' Brief, this Court should affirm the decision of the District Court.

DATED: January 20, 2026

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CERTIFICATE OF COMPLIANCE WITH RULE 32

This brief complies with the type-volume limitations of Fed. R. App. P. 29(5) and 32(a)(7)(B), as it contains 6,463 words, excluding the parts of the brief exempted by Fed. R. App. 32(f).

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CERTIFICATE OF SERVICE

I certify that the within brief has been electronically filed with the Clerk of the Court on January 20, 2026. All attorneys listed below are ECF filers and will receive service by electronic means pursuant to Rule 4 of this Court's Rules Governing Electronic Filing:

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