



**U.S. Department of Justice**  
Office of the Solicitor General

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*The Solicitor General*

*Washington, D.C. 20530*

June 20, 2024

The Honorable Mike Johnson  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

Re: *United States v. Sweeney-Teal*, No. 24-cr-12 (N.D. W. Va. Apr. 18, 2024)

Dear Mr. Speaker:

Consistent with 28 U.S.C. 530D, I write to advise you that the Department of Justice has decided not to appeal in the above-referenced case. A transcript of the oral ruling of the U.S. District Court for the Northern District of West Virginia is enclosed.

A federal grand jury indicted the defendant for possessing a firearm as an unlawful drug user, in violation of 18 U.S.C. 922(g)(3), and possessing a machinegun, in violation of 18 U.S.C. 922(o). The district court dismissed the Section 922(g)(3) count, but not the Section 922(o) count, on the ground that the statute violated the Second Amendment. The defendant then pleaded guilty on the Section 922(o) count.

The Department of Justice does not agree with the district court's decision in this case. The Department has filed a petition for a writ of certiorari in a case in which the U.S. Court of Appeals for the Fifth Circuit held that Section 922(g)(3) violates the Second Amendment. See *United States v. Daniels*, 77 F.4th 337 (5th Cir. 2023). The Department also has filed appeals in other cases where district courts have held that Section 922(g)(3) violates the Second Amendment. See, e.g., *United States v. Alston*, No. 23-cr-21 (E.D.N.C. July 18, 2023); *United States v. Connelly*, No. 22-cr-229 (W.D. Tex. Apr. 6, 2023). The Department remains committed to defending Section 922(g)(3)'s constitutionality in those and other cases.

The Department has determined, however, that an appeal is not appropriate in the particular circumstances of this case. Although the district court dismissed the Section 922(g)(3) charge, the defendant later pleaded guilty on the Section 922(o) charge. The Department has determined that the reinstatement of the Section 922(g)(3) charge is unlikely to make a material difference to the sentence that the defendant would receive and that an appeal could needlessly delay the final resolution of this case. The Department has concluded that, in these circumstances, further expenditure of prosecutorial resources is not warranted.

The Department filed a protective notice of appeal on May 17, 2024, but plans to dismiss the appeal on June 27, 2024. Please let me know if we can be of any further assistance in this matter.

Sincerely,

*Elizabeth B. Prelogar/RR*  
Elizabeth B. Prelogar  
Solicitor General

Enclosure