



U.S. Department of Justice

Office of the Solicitor General

The Solicitor General

Washington, D.C. 20530

April 11, 2025

The Honorable Richard J. Durbin
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: *Range v. Attorney General United States*, No. 21-2835 (3d Cir. 2024) (en banc)

Dear Senator Durbin:

Pursuant to 28 U.S.C. 530D, I am writing to advise you that the Department of Justice has decided not to file a petition for a writ of certiorari in the above-captioned case. A copy of the opinion issued by the en banc United States Court of Appeals for the Third Circuit is enclosed.

In 18 U.S.C. 922(g)(1), Congress prohibited a person from possessing a firearm if he has been convicted of "a crime punishable by imprisonment for a term exceeding one year." The plaintiff in this case, Bryan Range, was convicted in 1995 for food-stamp fraud after he signed an application for food stamps that understated his income. Although that offense, which was classified as a misdemeanor under state law, was punishable by up to five years of imprisonment, Range received no jail time. Range has had a clean record since then, apart from minor traffic and parking infractions and a summary offense for fishing without a license.

The en banc Third Circuit held that Section 922(g)(1) violates the Second Amendment as applied to Range. The court described its decision as "narrow," emphasizing that Range's misdemeanor conviction for food-stamp fraud was "decades" old, that Range had filed a civil suit in which he "sought protection" for "future possession of a firearm," and that "[t]he record contains no evidence that Range poses a physical danger to others." 124 F.4th 218, 232.

The Department of Justice has concluded that a petition for a writ of certiorari is not warranted in this case. The Third Circuit's decision is narrow, leaving Section 922(g)(1) untouched except in the most unusual applications. The Supreme Court has previously declined to grant plenary review when faced with similar decisions holding Section 922(g)(1) unconstitutional as applied to a narrow set of circumstances, including at a previous stage of this very case. See *Garland v. Range*, 144 S. Ct. 2706 (2024); *Sessions v. Binderup*, 582 U.S. 943 (2017). In addition, the Department of Justice has recently revitalized an administrative process through which an individual may obtain relief from federal firearms disabilities if he shows that "the circumstances regarding the disability, and the applicant's record and reputation, are such

that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest.” 18 U.S.C. 925(c); see *Withdrawing the Attorney General’s Delegation of Authority*, 90 Fed. Reg. 13,080 (Mar. 20, 2025). Because the courts of appeals have not yet had the opportunity to consider the effect of that action on the constitutional analysis, and because Range himself would likely qualify for relief under the revitalized process, the Department has concluded that the Supreme Court’s intervention is not warranted at this time.

Please let me know if I can be of any further assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. John Sauer', with a long, sweeping horizontal line extending to the right.

D. John Sauer
Solicitor General