U.S. Department of Justice

Office of the Solicitor General

The Solicitor General

Washington, D.C. 20530

September 24, 2026

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

Re: *United States* v. *Martin*, No. 25-30712 (5th Cir.)
United States v. *Banuelos*, No. 23-50731 (5th Cir.)

Dear Mr. Speaker:

Consistent with 28 U.S.C. 530D, I am writing to advise you that the Department of Justice has decided not to file petitions for writs of certiorari in the above-captioned cases.

The defendants in these two cases were convicted of violating 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." One defendant, Elijah Martin, has predicate convictions for simple drug possession and possessing a firearm as a felon. The other defendant, Luis Manuel Banuelos, has a predicate conviction for possessing between 50 and 2000 pounds of marijuana. In each case, the Fifth Circuit vacated the Section 922(g)(1) conviction on the ground that the statute violates the Second Amendment as applied to the predicate felony of drug possession.

Although the Department of Justice disagrees with the Fifth Circuit's decisions and is continuing to defend Section 922(g)(1)'s constitutionality in other cases, it has determined that petitions for writs of certiorari are not warranted in these cases. The Department recently completed a rulemaking to revitalize 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 the public safety and that the granting of the relief would not be in the public interest." 18 U.S.C. 925(c); see 91 Fed. Reg. 54,054 (Aug. 20, 2026). Moreover, the Fifth Circuit has granted a petition for rehearing en banc concerning the proper framework for analyzing as-applied challenges to Section 922(g)(1), see *United States* v. *Cordova*, No. 24-50564, and the Third Circuit has granted rehearing en banc and heard argument in two cases concerning that issue, see *Williams* v. *Attorney General*, No. 24-1091; *United States* v. *Bost*, No. 24-1719. Because the Department's rulemaking and the en banc courts' decisions could affect the circuit conflict about how to evaluate as-applied challenges to Section 922(g)(1), the Department has concluded that the Supreme Court's intervention would not be warranted at this juncture.

In addition, the Department has determined that the individual facts and circumstances of these cases make them unsuitable vehicles for Supreme Court review. Given the number of cases presenting these issues in the lower courts, this letter will serve as continuing notice that the Department intends to file a petition for a writ of certiorari only when the case provides a suitable vehicle for Supreme Court review and when seeking certiorari would advance the government's strategic and institutional interests.

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

Sincerely,

D. John Sauer
Solicitor General