

United States Court of Appeals For the First Circuit

No. 24-1687

UNITED STATES OF AMERICA,

Appellee,

v.

JASON LEVASSEUR,

Defendant, Appellant.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

[Hon. Lance E. Walker, U.S. District Judge]

Before

Barron, Chief Judge,
Rikelman and Aframe, Circuit Judges.

Scott F. Hess, with whom The Law Office of Scott F. Hess, LLC was on brief, for appellant.

Brian S. Kleinbord, Assistant United States Attorney, with whom Craig M. Wolff, Acting United States Attorney, was on brief, for appellee.

September 16, 2026

RIKELMAN, Circuit Judge. Jason Levasseur appeals his conviction for possessing a firearm as a felon in violation of 18 U.S.C. § 922(g)(1). He contends that the statute is unconstitutional under the Second Amendment as applied to him. We conclude that he has failed to show any error in the district court's ruling rejecting his as-applied claim and thus affirm.

I. BACKGROUND

A. Relevant Facts

"Because this appeal follows [Levasseur's] guilty plea, we draw the facts . . . from 'the probation office's presentence investigation report (PSR), the plea agreement, [and] the transcript of the sentencing hearing.'" United States v. Langston, 110 F.4th 408, 413 (1st Cir. 2024) (quoting United States v. Colón-Cordero, 91 F.4th 41, 45 (1st Cir. 2024)). In resolving Levasseur's Second Amendment claim, we consider only the facts alleged in his federal indictment, although we rely on a broader set of facts in describing the background of this case.

On November 16, 2022, a Maine State Police trooper observed a pickup truck he believed to be operated by Levasseur enter a gas station in Danforth, Maine. The trooper knew that Levasseur had an active felony arrest warrant based on a state probation violation, as well as prior felony convictions. He also knew that Levasseur was reputed to carry firearms. The trooper positively identified Levasseur and proceeded to detain him. While

restraining Levasseur, the trooper removed a large knife from a sheath on Levasseur's belt.

The trooper then questioned Levasseur, who confirmed that he had a firearm. The trooper located a "hunting rifle . . . wrapped in a blanket on the backseat of the pickup" with "two rounds in the magazine and one round in the chamber." After additional questioning, Levasseur also acknowledged that "a baggy of methamphetamines [was] hidden in the center console of the truck." The "baggy," which contained eight grams of methamphetamine, was ultimately seized by law enforcement.

According to the PSR, Levasseur later explained that he had a rifle in his truck that day because he was hungry and had planned to shoot a deer. He also claimed that he had been hunting shortly before the trooper arrested him, although he did not have a hunting license at the time. Finally, Levasseur admitted to methamphetamine addiction, disclosing that he used between one to three grams a day.

Before the arrest and federal conviction at issue in this appeal, Levasseur had previously been convicted of multiple state offenses under the Maine Criminal Code. His state criminal history includes three convictions for illegal possession of a

firearm¹ and one conviction each for operating a motor vehicle after habitual offender revocation,² unlawful possession of methamphetamine,³ and violation of a condition of release on bail.⁴ Each of these convictions was for a felony offense. Of the firearm convictions, one concerned possession of a machine gun and another involved Levasseur trading a firearm with an obliterated serial number in exchange for methamphetamine.

B. Procedural History

In December 2022, a grand jury indicted Levasseur on one count of possession of a firearm by a prohibited person in violation of 18 U.S.C. § 922(g)(1). The indictment alleged that

¹ "A person may not own, possess or have under that person's control a firearm, unless that person has obtained a permit under this section, if that person [h]as been convicted of committing or found not criminally responsible by reason of insanity of committing" a crime "punishable by imprisonment for a term of one year or more." Me. Rev. Stat. Ann. tit. 15, § 393(1)(A-1)(1).

² "A person commits operating after habitual offender revocation if that person [o]perates a motor vehicle on a public way . . . when that person's license to operate a motor vehicle has been revoked" Me. Rev. Stat. Ann. tit. 29-A, § 2557-A(1)(A).

³ "[A] person is guilty of unlawful possession of a scheduled drug if the person intentionally or knowingly possesses what that person knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug is . . . [m]ethamphetamine and the amount possessed is more than 200 milligrams." Me. Rev. Stat. Ann. tit. 17-A, § 1107-A(1)(B)(7).

⁴ "A defendant who has been granted preconviction or postconviction bail and who, in fact, violates a condition of release is guilty of . . . [a] Class C crime if the underlying crime was punishable by a maximum period of imprisonment of one year or more" Me. Rev. Stat. Ann. tit. 15, § 1092(1)(B).

Levasseur possessed the firearm "knowing that he had previously been convicted of a crime punishable by imprisonment for a term exceeding one year." It listed his six Maine state convictions as the predicate offenses supporting the § 922(g)(1) charge.

Levasseur promptly moved to dismiss the indictment, contending that § 922(g)(1) was unconstitutional as applied to him under the Supreme Court's decision in New York State Rifle & Pistol Ass'n v. Bruen, 597 U.S. 1 (2022). The district court denied Levasseur's motion in October 2023. United States v. Levasseur, No. 22-cr-155, 2023 WL 6623165, at *9 (D. Me. Oct. 11, 2023). In reaching its decision, the court concluded that "Levasseur's alleged prior felony conviction for the possession of methamphetamine makes him sufficiently dangerous that he may constitutionally be disarmed." Id. In so holding, the court did not consider whether any of Levasseur's other predicate offenses, "individually or collectively," justified disarmament. Id. at *9 n.14.

After the district court denied his motion to dismiss, Levasseur pleaded guilty to the indictment but preserved his right to appeal that ruling. He then renewed his motion to dismiss once the Supreme Court decided United States v. Rahimi, 602 U.S. 680 (2024). The district court denied his renewed motion as well. See United States v. Levasseur, No. 22-cr-155, 2024 WL 3358221, at

*3 (D. Me. July 9, 2024). In July 2024, the court sentenced Levasseur to time served and three years of supervised release.

Levasseur timely appealed.

II. DISCUSSION

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. Since 2008, the Supreme Court has interpreted the Second Amendment to protect an individual right to keep and bear arms for self-defense. See, e.g., District of Columbia v. Heller, 554 U.S. 570, 592 (2008).

The statute at issue here, § 922(g)(1), makes it "unlawful for any person . . . who has been convicted in any court of[] a crime punishable by imprisonment for a term exceeding one year . . . [to] possess in or affecting commerce, any firearm or ammunition." 18 U.S.C. § 922(g)(1). The question in this case is whether this statute is constitutional under the Second Amendment as applied to Levasseur.

Before we analyze Levasseur's Second Amendment claim, we highlight two concessions by him and explain the nature of his challenge to the district court's order, which together narrow the scope of this appeal. First, Levasseur does not dispute that § 922(g)(1) is constitutional on its face. In making this concession, Levasseur acknowledges that the Supreme Court has

indicated for nearly 20 years, albeit in dicta, that "longstanding prohibitions on the possession of firearms by felons" are "presumptively lawful." Heller, 554 U.S. at 626, 627 n.26; see also McDonald v. City of Chicago, 561 U.S. 742, 786 (2010) (plurality opinion) ("We made it clear in Heller that our holding did not cast doubt on such longstanding regulatory measures as 'prohibitions on the possession of firearms by felons[.]' . . . We repeat [that] assurance[] here." (quoting Heller, 554 U.S. at 626)). The Supreme Court repeated this "presumptively lawful" refrain two years ago in Rahimi. 602 U.S. at 699. Second, Levasseur admits that disarming categories of dangerous individuals, as § 922(g)(1) does, is consistent with our Nation's history and tradition.

Levasseur's central claim on appeal is that he does not fall into any category of individuals who are dangerous enough to be disarmed. At times, Levasseur appears to contend that only individuals with predicate convictions for violent felonies qualify as dangerous. And he would have courts determine whether a felony is violent by looking to "the elements of the underlying crime," as opposed to making factual findings based on the individual's particular criminal history and conduct. In Levasseur's view, his predicate state conviction for methamphetamine possession is not a violent felony under that mode of analysis, and so his disarmament is unconstitutional. At other

times, Levasseur appears to argue that individuals with felony convictions qualify as dangerous only if they have been found to pose a specific threat of violence to another person, and that he is not such an individual and thus cannot be disarmed for that reason either.

In pressing these arguments, however, Levasseur fails to grapple with the district court's conclusion that our history and tradition permits disarming individuals who are "too dangerous to possess a firearm" even if there is no determination that the individual has a prior history of violence, Levasseur, 2023 WL 6623165, at *7, or poses a specific future threat of violence to another, Levasseur, 2024 WL 3358221, at *3. Thus, he never refutes the basis for the court's dangerousness analysis and its holding that § 922(g)(1) is constitutional as applied to him. See United States v. Randazzo, 80 F.3d 623, 633 (1st Cir. 1996) ("In all events, it is the appellant's responsibility to make some showing that an error has been committed.").

With the limited scope of Levasseur's arguments in mind, we proceed to the two-step approach laid out in Bruen and its progeny for evaluating a Second Amendment claim. Initially, we must "consider whether the Second Amendment's plain text covers the regulated conduct." United States v. Vizcaino-Peguero, 175 F.4th 34, 37 (1st Cir. 2026) (citation modified). If the answer is yes, then the Constitution "presumptively protects that

conduct," and we move to the next step of the analysis. Bruen, 597 U.S. at 17. In the second step, we must determine whether the government has "demonstrat[ed] that [the challenged] regulation is consistent with this Nation's historical tradition of firearm regulation." United States v. Minor, 165 F.4th 616, 621 (1st Cir. 2026) (second alteration in original) (quoting Bruen, 597 U.S. at 17). We review de novo the district court's legal rulings resolving these constitutional questions. See Vizcaino-Peguero, 175 F.4th at 37 (citing Minor, 165 F.4th at 621).

A. Step One

At step one, we must determine whether the Second Amendment applies to individuals with felony convictions, like Levasseur, and whether it applies to his specific conduct in this case -- possessing a rifle. See id.; Wolford v. Lopez, 609 U.S. ___, 146 S. Ct. 2032, 2043-44 (2026). The government does not dispute that possessing a rifle is the type of conduct covered by the Second Amendment. But it does contend that Levasseur's felony conviction puts him beyond the reach of the Second Amendment's protections.

The government maintains that, given his previous felony convictions, Levasseur cannot qualify as one of "the people" protected by the Second Amendment. U.S. Const. amend II. Relying on language from Heller, it argues that the Second Amendment applies only to "members of the political community," and that

individuals with felony convictions like Levasseur have forfeited their membership in that community. 554 U.S. at 580; see also Wolford, 146 S. Ct. at 2043 (stating that "the people" includes "all members of the political community"). The government also emphasizes the Supreme Court's repeated references to "law-abiding citizens" in its Second Amendment decisions. See Heller, 554 U.S. at 625; Bruen, 597 U.S. at 31-32; Wolford, 146 S. Ct. at 2045, 2049. In the government's view, because individuals with felony convictions are not "law-abiding," they cannot be part of "the people."

Given our ultimate holding that the government prevails at step two of the Bruen/Rahimi framework, we follow our recent approach in a similar case and assume without deciding that Levasseur is one of "the people." As we explained in Vizcaino-Peguero, which concerned a challenge to a different provision of § 922, "the principle of constitutional avoidance points against our deciding" the scope of "'the people' to whom the Second Amendment refers . . . if it is not necessary for us to do so." 175 F.4th at 39. That is especially so because the phrase "the people" appears in multiple amendments to the Constitution. See id. at 40 (explaining why it is prudent to avoid this thorny constitutional question); see, e.g., U.S. Const. amend. I (protecting "the right of the people peaceably to assemble, and to petition the Government for a redress of grievances"); U.S. Const.

amend. IV (protecting "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures"). Thus, we "bypass the parties' dispute at Bruen's first step" and proceed to step two. Vizcaíno-Peguero, 175 F.4th at 40.⁵

B. Step Two

At step two, it is the government's burden to show that a restriction like § 922(g)(1) is constitutional under the Second Amendment because it "comports with this country's tradition of firearm regulation." Vizcaíno-Peguero, 175 F.4th at 40. To meet its burden, "[t]he government . . . must identify historical analogues to" the challenged restriction "that suffice to show that such an encompassing historical tradition exists." Id.

⁵ We note that our sister circuits are split on the question of whether individuals with felony convictions are among "the people" protected by the Second Amendment, with most circuits holding that they are. See Zherka v. Bondi, 140 F.4th 68, 77 (2d Cir. 2025), cert. denied, ___ S. Ct. ___, 2026 WL 135708 (Jan. 20, 2026) (mem.); Range v. Att'y Gen. U.S., 124 F.4th 218, 226 (3d Cir. 2024) (en banc); United States v. Diaz, 116 F.4th 458, 466 (5th Cir. 2024), cert. denied, 145 S. Ct. 2822 (2025) (mem.); United States v. Williams, 113 F.4th 637, 649 (6th Cir. 2024); United States v. Watson, 171 F.4th 1012, 1017-18 (7th Cir. 2026); United States v. Duarte, 137 F.4th 743, 754-55 (9th Cir. 2025) (en banc), cert. denied, ___ S. Ct. ___, 2026 WL 135692 (Jan. 20, 2026) (mem.); United States v. Harrison, 153 F.4th 998, 1014 (10th Cir. 2025). But see United States v. Hunt, 123 F.4th 697, 704 (4th Cir. 2024) (concluding that "the possession of firearms by felons" is "'activity' . . . that 'fall[s] outside the scope of the [Second Amendment] right as originally understood'" (last two alterations in original) (quoting Bruen, 597 U.S. at 18)), cert. denied, 145 S. Ct. 2756 (2025) (mem.).

The government contends that resolving this case at step two is straightforward. In its view, we should eschew all as-applied challenges to § 922(g)(1), because the Nation's history and tradition of firearm regulation permits class-wide disarmament of individuals who have been convicted of a crime punishable by more than one year in prison. The government relies on two separate aspects of our Nation's history and tradition in making this argument: disarmament of individuals who "pose a danger of misusing firearms"⁶ and disarmament of individuals convicted of a serious crime. It also urges us to rely on the Supreme Court's repeated statements that laws disarming individuals with felony convictions are "presumptively lawful."

We follow a different path and affirm the district court's ruling based on the limited arguments presented by Levasseur on appeal. In doing so, we assume in Levasseur's favor that we can entertain this as-applied challenge to his § 922(g)(1) conviction,⁷ and that the Supreme Court's previous statements that

⁶ Before the district court and on appeal, the government has advanced the theory that it can disarm individuals who pose a special danger of misusing firearms. For example, it has asserted that governments historically disarmed "all people belonging to groups that were, in the judgment of those early legislatures, potentially violent or dangerous."

⁷ Our sister circuits that have considered the question of whether to permit as-applied challenges to § 922(g)(1) in the wake of Bruen and Rahimi are deeply divided. Four circuits have completely foreclosed such challenges. See United States v. Jackson, 110 F.4th 1120, 1129 (8th Cir. 2024) (concluding that the

laws disarming felons are presumptively constitutional are not dispositive of his Second Amendment claim. Ultimately, we hold that Levasseur has failed to show any error in the district court's determination that he falls into the category of individuals who can be disarmed because they pose a special danger of misusing firearms and, for that reason, § 922(g)(1) is constitutional as applied to him.

1. The District Court's Analysis

The district court ruled that "Levasseur's alleged prior felony conviction for the possession of methamphetamine makes him sufficiently dangerous that he may constitutionally be disarmed." Levasseur, 2023 WL 6623165, at *9. It reasoned that the Nation has a history and tradition of disarming individuals who pose a special danger of misusing firearms, and that, per this history and tradition, an individual can pose such a danger even without a determination that the individual has a prior history of violence

Nation has a tradition of disarming "categories of persons . . . who deviated from legal norms or . . . presented an unacceptable risk of dangerousness"); see also Zherka, 140 F.4th at 94; Hunt, 123 F.4th at 706; Duarte, 137 F.4th at 761. Three circuits permit them. See Pitsilides v. Barr, 128 F.4th 203, 210 (3d Cir. 2025) (explaining that courts must "make an individualized determination" in evaluating as-applied challenges to § 922(g)(1)); Diaz, 116 F.4th at 470 (finding § 922(g)(1) constitutional as applied only to defendants "who would have been felons at the Founding"); Williams, 113 F.4th at 661 ("The relevant principle from our tradition of firearms regulation is that, when the legislature disarms on a class-wide basis, individuals must have a reasonable opportunity to prove that they don't fit the class-wide generalization.").

or poses a specific threat of future violence to another. Id. at *7-8.

To support its initial ruling rejecting Levasseur's Second Amendment claim, the district court pointed to laws disarming Loyalists, Catholics, Native Americans, and African Americans, emphasizing that none of those groups were disarmed because they were "violent criminals." Id. at *7. Instead, the court determined that "[t]he common thread tying the early-American history of firearm regulation together is that governments exercised authority to disarm persons seen as too dangerous to possess a firearm," id., in the sense that they "plausibly pose[d] a threat to the orderly functioning of society" if armed, id. at *8 (citation omitted).

In its analysis, the district court also relied on proposed language for the Second Amendment discussed at state constitutional conventions held shortly after the Founding. As the court put it, these proposals demonstrated that "the right to bear arms was understood to have limits, and the categorical restrictions were 'not about felons in particular or even criminals in general;' instead, they were 'about threatened violence and the risk of public injury.'" Id. (quoting Kanter v. Barr, 919 F.3d 437, 456 (7th Cir. 2019) (Barrett, J., dissenting)). The court then held that "§ 922(g)(1) is sufficiently analogous to the historical practices of disarming [categories of] dangerous

persons insofar as the statute disarms felons who can reasonably be viewed as too dangerous to possess a firearm." Id.

After concluding that the Second Amendment does not prohibit Congress from categorically disarming individuals who are deemed too dangerous to possess a firearm -- even if they have not already been deemed violent -- the district court went on to specifically find that Levasseur was such an individual. See id. at *8-9. In doing so, the court relied on Levasseur's conviction for possession of methamphetamine: It explained that "[e]ven one who simply possesses a controlled substance like methamphetamine must generally obtain it from someone else, and firearms are often involved in drug transactions." Id. at *9.⁸ As the court pointed out, the "dangerous connection" between illegal drug transactions and firearms is "well-known." Id.

The district court adhered to its previous conclusion that § 922(g)(1) was constitutional as applied to Levasseur because his conviction for methamphetamine possession rendered him "too dangerous to possess a firearm" in rejecting his renewed motion to dismiss after Rahimi. Levasseur, 2024 WL 3358221, at *3. It acknowledged that the Supreme Court had found it significant that Rahimi had posed a specific threat of violence to

⁸ For purposes of resolving this appeal, we (1) rely only on Levasseur's predicate conviction for methamphetamine possession and (2) consider only the elements of that predicate offense and not the facts underlying his specific criminal conduct.

his girlfriend, and that "unlike Rahimi, Levasseur has not been found by a court to pose a credible threat of danger" to another person. Id. at *2-3. But the court also noted the Supreme Court's statement in Rahimi that it was "not suggest[ing] that the Second Amendment prohibits the enactment of laws banning the possession of guns by categories of persons thought by a legislature to present a special danger of misuse." Id. at *3 (quoting Rahimi, 602 U.S. at 698). The court linked its understanding of dangerousness to this specific language in Rahimi.

2. The Historical Analogues Relied on by the District Court

On appeal, Levasseur continues to insist that he cannot be constitutionally disarmed consistent with the Second Amendment because his predicate convictions do not involve violence and no court has found him to pose a specific threat of future violence to another person. To explain why we are unconvinced by the limited arguments Levasseur presents, we begin by summarizing the historical analogues that the government invoked and the district court relied on to reach its ruling.

Colonial legislatures enacted law after law disarming groups of individuals who for one reason or another were thought to pose a danger to public safety. For example, legislatures disarmed groups opposing the government. In 1775, the Connecticut legislature enacted a law "disarm[ing]" individuals who "libel[ed] or defame[d]" the government, prohibiting them from "hav[ing] or

keep[ing] any arms." Act of Dec. 1775, reprinted in 15 The Public Records of the Colony of Connecticut from May, 1775, to June, 1776, at 193 (Charles J. Hoadly ed., Hartford, Case, Lockwood & Brainard Co. 1890). One year later, the Continental Congress recommended that the other colonies follow suit and disarm anyone "notoriously disaffected to the cause of America." 4 Journals of the Continental Congress, 1774-1789, at 205 (Worthington Chauncey Ford ed., 1906).

Between 1776 and 1779, several additional colonies enacted laws to prevent "the great danger to which [they were] exposed" by disarming Loyalists -- individuals who were loyal to the British Crown. See Act of 1776, reprinted in 7 Records of the Colony of Rhode Island and Providence Plantations in New England 566-67 (John Russell Bartlett ed., Providence, 1862); Act of Mar. 14, 1776, ch. 21, 1775-76 Mass. Acts 479; Act of June 13, 1777, ch. 756 §§ 2-4, 1777 Pa. Laws 110, 111-13. These colonies recognized that it was "very improper and dangerous that persons disaffected to the liberty and independence of [the country] should possess or have in their own keeping, or elsewhere, any fire arms, or other weapons used in war, or any gun powder." Act of Apr. 2, 1779, reprinted in Laws Enacted in the Second Sitting of the Third General Assembly, of the Commonwealth of Pennsylvania 199 (John Dunlap ed., Philadelphia, 1779); see also Regulations Respecting Persons Who Are Disarmed on Account of Their Inimical Principles

(May 11, 1776), reprinted in 5 American Archives, ser. 4, at 1504 (Peter Force ed., Washington, M. St. Clair Clarke & Peter Force 1844) (discussing a New York law disarming "the most dangerous" "inimical" individuals "not only for the safety of the . . . Province, but of the United Colonies in general").⁹ The repeated references in these laws to "danger" indicate that early legislatures acted to address "social upheavals," "rebellion," "the potential threat coming from armed citizens who remained loyal to another sovereign," and to protect "public safety" and "stability." Kanter, 919 F.3d at 457-58 (Barrett, J., dissenting) (citation modified).¹⁰

Proposals for the text of the Second Amendment that were considered at the time of the Founding also reflected lawmakers' concerns for protecting public safety. For example, a portion of the delegation to the Convention of the State of Pennsylvania proposed that the right to bear arms be protected such that "no law shall be passed for disarming the people or any of them unless for crimes committed, or real danger of public injury from

⁹ These two specific laws were not expressly invoked by the government or cited by the district court, but they are similar to other Loyalist disarmament laws that the government did invoke and that the court cited.

¹⁰ Believing that it was "dangerous . . . to permit Papists to be armed," legislatures also prohibited Catholics from possessing arms. See Act of Mar. 1756, reprinted in 7 The Statutes at Large; Being a Collection of All the Laws of Virginia ch. 4, 35 (William Waller Hening ed., Richmond, 1820).

individuals." 2 Bernard Schwartz, The Bill of Rights: A Documentary History 662, 665 (1971) (emphasis added); see Heller, 554 U.S. at 604 (referencing this "highly influential minority proposal"). Similarly, a motion at the Massachusetts convention proposed that the Constitution explicitly allow "the people of the United States, who are peaceable citizens, [to keep] their own arms." Schwartz, supra, at 681 (emphasis added).

The common theme of these proposals was to disarm those who "pose[d] a danger to public safety," in the sense that they threatened to cause public "tumult" or "turbulen[ce]." Kanter, 919 F.3d at 455-56 (Barrett, J., dissenting) (explaining the definition of "peaceable" at the time). And, although these proposals were not adopted, they still provide helpful data because "[t]he Second Amendment codified a 'pre-existing,' 'venerable,' and 'widely understood' right," so it is "unlikely that 'different people of the founding period had vastly different conceptions' of its scope." Range v. Att'y Gen. U.S., 124 F.4th 218, 264 (3d Cir. 2024) (en banc) (Krause, J., concurring) (quoting Heller, 554 U.S. at 603-05).

3. Levasseur's Limited Arguments on Appeal

To establish that the district court erred in its legal analysis, Levasseur would have to show that the historical analogues the court relied on were not "relevantly similar" to § 922(g)(1), either as to why or how that restriction burdens the

individual right to keep and bear arms. Rahimi, 602 U.S. at 692 (quoting Bruen, 597 U.S. at 29). Yet Levasseur does not meaningfully engage with or respond to the nature of the district court's dangerousness analysis in his opening brief. Instead, he largely ignores the historical analogues we have just described¹¹ and instead focuses narrowly on other historical laws disarming individuals who were deemed physically violent.

To be sure, in his opening brief, Levasseur argues that "[t]he [historical] concept of dangerousness was not nearly as broad as the [d]istrict [c]ourt suggests." But in making that argument, he points to surety laws and "going armed" laws,¹² which the district court did not rely on, and contends that they offer historical support for disarmament only "[w]hen an individual poses a clear threat of physical violence to another." (Quoting

¹¹ Although the government raised these laws to the district court and the district court relied on them, Levasseur's opening brief does not analyze them. See Sparkle Hill, Inc. v. Interstate Mat Corp., 788 F.3d 25, 30 (1st Cir. 2015) (criticizing "opening brief [for] present[ing] no argument at all challenging express grounds upon which the district court prominently relied in entering judgment"). Instead, Levasseur addresses these analogues only in his reply brief, risking waiver, as we discuss below. See id. (finding argument waived because "[o]ne hundred percent of the argument advanced for why [the court] should reverse [the district court's] holding [was] in the reply brief").

¹² "Surety laws . . . authorized magistrates to require individuals suspected of future misbehavior . . . to post a bond which would be forfeit if the individual later broke the peace." Minor, 165 F.4th at 622 (citation modified). "Going armed laws . . . prohibited riding or going armed, with dangerous or unusual weapons, to terrify the good people of the land." Id. (citation modified).

Rahimi, 602 U.S. at 698.) He further highlights that "[f]ederal law only began prohibiting possession of firearms by non-violent felons in 1961." Then, without ever addressing the historical analogues the court did rely on, Levasseur maintains that "for 170 years" after the adoption of the Bill of Rights, "a person could only be disarmed if they had shown themselves to be dangerous" in the sense that they "pos[ed] a risk of violence."

Relying on his definition of dangerousness, Levasseur contends that the district court erred in concluding that his methamphetamine possession rendered him sufficiently dangerous to be disarmed. Pointing again to the surety and going armed laws, he insists that "[d]isarmament was only allowed in response to some type of actual conduct by a person that directly placed another person at risk of harm." And Levasseur concludes that because methamphetamine possession does not render him "dangerous" in that specific way, disarming him is not consistent with our Nation's history and tradition of firearm regulation and thus the court's analogical reasoning must have been "too broad."

Levasseur's argument that his conviction for methamphetamine possession was for a non-violent offense, however, is not enough on its own to explain why that conviction does not place him into a category of people who pose a special danger of

misusing firearms.¹³ See United States v. Hemani, 608 U.S. ___, 146 S. Ct. 1677, 1692 n.6 (2026) (clarifying that the relevant inquiry centers on whether the individual poses "a special danger of misuse," not necessarily a danger of physical violence). As we explained more than a decade ago, there may be "some felonies so tame and technical" that individuals who commit them will not pose a special danger of misusing firearms. See United States v. Torres-Rosario, 658 F.3d 110, 113 (1st Cir. 2011). But Levasseur fails to explain why the district court erred in concluding that methamphetamine possession is not one of those "tame and technical" felonies, especially given the Supreme Court's recognition that "drugs and guns can sometimes make for a dangerous mix." Hemani, 146 S. Ct. at 1687; cf. Smith v. United States, 508 U.S. 223, 240 (1993) ("When Congress enacted the current version of § 924(c)(1), it was no doubt aware that drugs and guns are a dangerous combination.").

Levasseur does tender two arguments that come closer to addressing the district court's dangerousness analysis. But neither is enough to demonstrate any error.¹⁴

¹³ Levasseur even conceded at oral argument that today, individuals who pose a special danger of misusing firearms can be disarmed consistent with the Second Amendment.

¹⁴ We note that Levasseur did not raise the first argument in his opening brief, so we would normally treat it as waived. See Clemente Props., Inc. v. Pierluisi-Urrutia, 165 F.4th 1, 44-45 (1st Cir. 2026) ("Our circuit disfavors allowing parties to argue,

First, Levasseur argues that the district court erred in its analysis of the "why" behind § 922(g)(1). He contends that the historical laws relied on by the court are inapt analogues because those laws disarmed groups of individuals on the basis that they were viewed as "dissidents or a threat," whereas § 922(g)(1) disarms individuals "because they [are] criminals."

But the modern version of § 922(g)(1) does not just serve the purpose of "crime control," as Levasseur contends. See Vizcaino-Peguero, 175 F.4th at 43. In enacting predecessor statutes to § 922(g)(1), Congress "determined that firearms must be kept away from persons, such as those convicted of serious crimes, who might be expected to misuse them." Dickerson v. New Banner Inst., Inc., 460 U.S. 103, 119 (1983); see also Scarborough v. United States, 431 U.S. 563, 572 (1977) ("Congress sought to rule broadly to keep guns out of the hands of those who have demonstrated that 'they may not be trusted to possess a firearm without becoming a threat to society.'" (quoting 114 Cong. Rec. 14773 (1968))). Indeed, the Supreme Court has described felon-in-possession bans as reflecting "Congress' judgment that a convicted felon . . . is among the class of persons who should be disabled from dealing in or possessing firearms because of

in a reply filing, issues that should have been included in the initial filing" and may "deem [such arguments] waived."). But because we can easily dispense with it on the merits, we proceed to explain why we find it unpersuasive.

potential dangerousness" Lewis v. United States, 445 U.S. 55, 67 (1980).

Levasseur offers no other argument challenging the district court's conclusion that § 922(g)(1) is relevantly similar on the "why" axis to the historical analogues the court considered, given the dangerousness principle the court determined was applicable. To the extent Levasseur means to emphasize that these analogues are not identical to § 922(g)(1), that would not be enough for him to prevail on appeal. The Supreme Court has made clear that the government does not need to identify a historical precursor that is a "dead ringer" for a modern firearm restriction, Bruen, 597 U.S. at 30, and that courts should not treat the Second Amendment as "trapped in amber," Rahimi, 602 U.S. at 691. So, by overlooking the district court's reasoning for why his conviction for methamphetamine possession makes him part of a class of individuals who can be deemed to pose a special danger of misusing firearms, Levasseur has failed to explain how the court erred in its analysis of our Nation's history and tradition.

Second, Levasseur suggests that these analogues are not relevantly similar to § 922(g)(1) on the "how" axis because members within the disarmed groups could secure the right to keep and bear arms by taking a loyalty oath. And it is true that, historically, Loyalists who were willing to swear allegiance to the United States could regain the right to keep and bear arms. See Range, 124 F.4th

at 262 (Krause, J., concurring) (explaining that individuals "could prospectively regain their rights by proving to a government official that they no longer posed a danger of misusing firearms").

As Levasseur highlights, the district court described § 922(g)(1) as imposing "lifetime disarmament against felons" when it addressed his arguments attempting to distinguish historical firearm regulations. Levasseur, 2023 WL 6623165, at *8; see also Levasseur, 2024 WL 3358221, at *3 (discussing the temporary nature of the disarmament under the surety and going armed laws analyzed in Rahimi). But the court rejected the thrust of Levasseur's arguments on the "how" axis, explaining that he was impermissibly "demanding a historical twin." Levasseur, 2023 WL 6623165, at *8.

Again, Levasseur has pointed to nothing to undermine the district court's implicit premise that legislatures can disarm an individual who is deemed dangerous based on a status for as long as the individual retains that status. (That is, assuming our Nation's history and tradition of firearm regulation supports treating that status as a marker of dangerousness.) Indeed, that was how the laws disarming Loyalists functioned. See 1775-76 Mass. Acts at 484 (explaining that disarmed Loyalists could "receive their arms again . . . by the order of [a] committee or the general court").

In any event, it is not clear that § 922(g)(1) does impose lifetime disarmament on anyone with a felony conviction.

Under 18 U.S.C. § 921(a)(20), "[a]ny conviction . . . for which a person . . . has had civil rights restored shall not be considered a conviction for purposes of this chapter." Levasseur does not engage with this statutory provision (or the potential restoration of his civil rights) and the extent to which this provision does or does not render disarmament under § 922(g)(1) permanent. See Minor, 165 F.4th at 624-25.¹⁵

Ultimately, the district court concluded that § 922(g)(1) was constitutional as applied to Levasseur because of his predicate conviction for methamphetamine possession, based on our Nation's history and tradition of disarming individuals who pose a special danger of misusing firearms. On appeal, it became Levasseur's burden to address the court's reasoning and to explain why that reasoning, and not some other reasoning, was incorrect.

¹⁵ Only "the convicting jurisdiction" can restore civil rights. Beecham v. United States, 511 U.S. 368, 372 (1994). Because Levasseur was convicted of violating Maine's criminal statutes, Maine's restoration procedures would govern. See Me. Rev. Stat. Ann. tit. 15, § 393(2).

In addition to 18 U.S.C. § 921(a)(20), Congress also offered another pathway for the restoration of Second Amendment rights when it enacted § 922(g)(1). Under 18 U.S.C. § 925(c), an individual can apply to the Attorney General for relief and regain their Second Amendment rights if they establish that they are not "likely to act in a manner dangerous to public safety" and rearmament "would not be contrary to the public interest." If the Attorney General denies the application, the individual can file a petition in federal district court for judicial review of the denial. See 18 U.S.C. § 925(c). But because the § 925(c) program was defunct at the time of Levasseur's conviction, we do not analyze further how it impacts his as-applied claim.

See Randazzo, 80 F.3d at 633. Levasseur's decision to argue solely that he cannot be disarmed because he does not have a history of violence and has not been found to pose a specific threat of violence to another person does not address whether he poses a special danger of misusing firearms. That omission is fatal to his case.

III. CONCLUSION

For all these reasons, we affirm Levasseur's conviction.