

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

United States v. Simmons

No. 21-3064, United States Court of Appeals for the Second Circuit (August 11, 2025)

SUMMARY

This Second Circuit opinion addresses the constitutionality of 18 U.S.C. § 922(g)(9), which prohibits individuals convicted of misdemeanor crimes of domestic violence from possessing firearms, under the Second Amendment following recent Supreme Court precedent. The court holds that the statute aligns with historical traditions of firearm regulation and is therefore constitutional both facially and as applied. The court also dismisses the defendant’s sentencing challenges as moot due to his completed prison term and agrees with the government that its cross-appeal regarding sentencing guidelines is foreclosed by binding circuit authority.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Nardini; Pérez; Kahn
JURISDICTION	United States Court of Appeals for the Second Circuit
DECIDED	August 11, 2025
DOCKET	21-3064
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from judgment of the United States District Court for the Southern District of New York
STANDARD OF REVIEW	plain error
PRECEDENTIAL VALUE	published
PARTIES	Valdez Simmons v. United States

TOPICS

- second amendment
- constitutional law
- criminal procedure
- appellate procedure

PRACTICE AREAS

- criminal procedure
- constitutional law

QUESTIONS PRESENTED

1. Whether 18 U.S.C. §922(g)(9) violates the Second Amendment.
2. Whether Simmons' sentencing challenges are moot.
3. Whether Simmons' 2013 conviction for criminal possession of a controlled substance is a "controlled substance offense" under U.S.S.G. §2K2.1(a)(4)(A).

HOLDINGS

1. The court held that §922(g)(9) is constitutional, both facially and as applied to Simmons.
2. The court held that Simmons' sentencing challenges are moot because he has completed his prison term and there is no realistic possibility of a reduced supervised-release term on remand.
3. The court held that the 2013 conviction is not a controlled-substance offense under U.S.S.G. §2K2.1(a)(4)(A), following *United States v. Minter*.

KEY QUOTATIONS

"We conclude that § 922(g)(9) is constitutional, both facially and as applied to Simmons."

"Because the record contains no indication that the district court would reduce Simmons' term of supervision on remand, his sentencing challenges no longer present a live controversy."

FACTUAL BACKGROUND

After a 2012 domestic-violence misdemeanor conviction, Simmons was arrested in 2020 with a .380 caliber Kel-Tec pistol. He pleaded guilty to 18 U.S.C. §922(g)(9) and was sentenced to 48 months imprisonment and three years supervised release. He completed his prison term in February 2024 and remains on supervised release.

PROCEDURAL HISTORY

Simmons was convicted of a misdemeanor crime of domestic violence in 2012, later pleaded guilty to violating 18 U.S.C. §922(g)(9) for possessing a firearm, and was sentenced to 48 months imprisonment and three years supervised release. Both Simmons and the Government appealed the conviction and sentence; the Government also cross-appealed the district court's determination that a 2013 state drug conviction was not a controlled-substance offense under the Sentencing Guidelines.

DISPOSITION

affirmed

CASES CITED

- *United States v. Minter*, 80 F.4th 406 (2d Cir. 2023)
- *United States v. Donziger*, 38 F.4th 290 (2d Cir. 2022)
- *United States v. Houtar*, 980 F.3d 268 (2d Cir. 2020)
- *United States v. Rahimi*, 602 U.S. 680 (2024)

- United States v. Castleman, 572 U.S. 157 (2014)
- Zherka v. Bondi, 140 F.4th 68 (2d Cir. 2025)
- United States v. Gailles, 118 F.4th 822 (6th Cir. 2024)
- United States v. Jackson, 138 F.4th 1244 (10th Cir. 2025)
- United States v. Nutter, 137 F.4th 224 (4th Cir. 2025)
- United States v. Bernard, 136 F.4th 762 (8th Cir. 2025)
- United States v. Townsend, 897 F.3d 66 (2d Cir. 2018)

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