

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

October 20, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HABIBULLAH JAGHOORI,

Defendant - Appellant.

No. 25-3192
(D.C. No. 5:22-CR-40050-HLT-2)
(D. Kan.)

ORDER AND JUDGMENT*

Before **HARTZ, KELLY**, and **CARSON**, Circuit Judges.

Defendant Habibullah Jaghoori pled guilty to conspiracy to commit an offense against the United States, specifically, conspiracy to make a false statement during the purchase of a firearm. *See* 18 U.S.C. §§ 371, 922(a)(6). The district court sentenced him to eight months in prison. On appeal, he challenges the district court's denial of a motion to dismiss the indictment. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm the district court's judgment.

* After examining the briefs and appellate record, this panel has determined unanimously to honor the parties' request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

BACKGROUND

On March 22, 2021, Fatima Jaghoori, Habibullah's sister, bought two Glock pistols from a federal firearms licensee. To purchase the firearms, Fatima completed and signed the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") Form 4473. Question 21.a on the form asked:

Are you the actual transferee/buyer of the firearm(s) listed on this form and any continuation sheet(s) (ATF Form 5300.9A)?

Warning: You are not the actual transferee/buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual transferee/buyer, the licensee cannot transfer the firearm(s) to you.

Exception: If you are only picking up a repaired firearm(s) for another person, you are not required to answer 21a. and may proceed to question 21.b.

R. vol. I at 17.

Fatima answered the question affirmatively and certified that she was the actual buyer of the firearms. But Fatima did not purchase the firearms for herself. Instead, she purchased both firearms for her brother, purportedly so he could benefit from the military discount Fatima received for firearm purchases. Neither sibling was prohibited from owning a firearm when Fatima made the purchase.

In August 2022, the government indicted the siblings for their involvement in the purchase.¹ Count 1 charged both Fatima and Habibullah under 18 U.S.C. § 371 for conspiring to violate § 922(a)(6). Count 2 charged Fatima for violating 18 U.S.C. § 922(a)(6).

¹ The indictment included additional counts and factual information, but we limit our discussion to the counts and facts relevant to the issue before us on appeal.

Habibullah and Fatima jointly moved to dismiss Counts 1 and 2 of the indictment under the Second Amendment. They argued that Fatima’s false answer to Question 21.a on Form 4473 was immaterial to the firearm sale because the Second Amendment protected Habibullah’s ability to purchase firearms via his sister.

The district court denied the motion to dismiss. It reasoned that the siblings were not charged for conduct within the scope of the Second Amendment and were instead charged for lying and conspiring to lie on a government form.

Habibullah then pled guilty to Count 1 of the indictment and was sentenced to eight months in prison. He now appeals.

DISCUSSION

Habibullah argues that the district court erroneously concluded that Fatima’s conduct was not covered by the Second Amendment and thus erred in denying the motion to dismiss the indictment. Raising an as-applied Second Amendment challenge, Habibullah argues that § 922(a)(6) violates the Second Amendment.

For the reasons discussed below, we reject Habibullah’s arguments and agree with the district court that Habibullah’s conduct fell outside the Second Amendment.

Legal Framework

“We review de novo the district court’s denial of a motion to dismiss an indictment on constitutional grounds.” *United States v. Brune*, 767 F.3d 1009, 1015 (10th Cir. 2014).

The Second Amendment of the United States Constitution states that “[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. The Second Amendment protects an individual’s right to self-defense, which is recognized as an “individual right to possess and carry weapons in case of confrontation.” *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 32 (2022) (quoting *District of Columbia v. Heller*, 554 U.S. 570, 626-27 (2008)). But the right to bear arms is not unlimited. *Id.* at 21. “It is no surprise, then, that the government may still lawfully regulate firearms, as it has done for centuries.” *Rocky Mountain Gun Owners v. Polis*, 121 F.4th 96, 113 (10th Cir. 2024). And the Supreme Court “has endorsed firearm regulations that restrict conduct unprotected by the Second Amendment.” *United States v. Ogilvie*, 153 F.4th 1098, 1103 (10th Cir. 2025); *see also Heller*, 554 U.S. at 626-27 (“[N]othing in [*Heller*] should be taken to cast doubt on . . . laws imposing conditions and qualifications on the commercial sale of arms.”).

To determine whether a law or regulation violates the Second Amendment, courts apply the two-part analysis in *Bruen*. *See Ogilvie*, 153 F.4th at 1103. “At step one, the party challenging the regulation must show that the plain text of the Second Amendment covers the regulated conduct.” *Id.* If the plain text of the Second Amendment does not cover that conduct, then the inquiry ends. *See id.* If it does, then courts move on to step two: analyzing whether the challenged regulation “is consistent with the Nation’s historical tradition of firearm regulation.” *Bruen*, 597 U.S. at 24.

18 U.S.C. § 922(a)(6) prohibits “any person in connection with the acquisition . . . of any firearm . . . knowingly to make any false or fictitious oral or written statement . . . with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition.” We conclude this prohibition includes false statements on ATF Form 4473.

Analysis

We need not delve into *Bruen*’s full constitutional analysis here because the Second Amendment does not cover the at-issue conduct—conspiring to lie to on government forms.² See *United States v. Knox*, 396 U.S. 77, 79 (1969) (“[O]ne who furnishes false information to the Government in feigned compliance with a statutory requirement cannot defend against prosecution for his fraud by challenging [sic] the validity of the requirement itself.”). Essentially, Habibullah cannot avoid a conviction for conspiring to lie on a federal form by arguing that the question should never have been included on the form in the first place.

Our conclusion aligns with recent decisions from the Seventh and Ninth Circuits. In *United States v. Holden*, the Seventh Circuit discussed the constitutionality of § 922(a)(6) following the appellant’s conviction for making false statements on Form 4473. 70 F.4th 1015, 1017-18 (7th Cir. 2023). There, the court

² We have previously recognized that the government can restrict rights to firearms based on suspicion of criminal guilt. See *Ogilvie*, 153 F.4th at 1103 (engaging in a full *Bruen* analysis). That is considerably more of an encroachment than designating ownership of firearms, which suggests that, even if we engaged in a full Second Amendment analysis here, we would reach the same conclusion.

determined that “[t]he power to collect accurate information is of a different character—and stands on a firmer footing—than the power to prohibit particular people from owning guns.” *Id.* at 1017. The court further concluded that the government may punish false statements, as “[t]he word ‘material’ in § 922(a)(6) does not create a privilege to lie, when the answer is material to a statute, whether or not that statute has an independent constitutional problem.” *Id.* And the Seventh Circuit reenforced *Holden* by later directly holding that “[a defendant] may not lie when completing Form 4473 and then turn around and challenge [a] § 922(a)(6) conviction on the ground that the information requirement itself is invalid.” *United States v. Scheidt*, 103 F.4th 1281, 1284 (7th Cir. 2024). The Ninth Circuit applied similar reasoning in *United States v. Manney*, when it held that the Second Amendment did not bar a conviction under 18 U.S.C. § 922(a)(6) for making false statements on Form 4473. 114 F.4th 1048, 1053-54 (9th Cir. 2024). The court concluded that the false-statements prohibition permissibly “regulates statements made by the individual purchasing a firearm to ensure that a purchaser is not lying to a firearms dealer about who is purchasing the firearm.” *Id.* at 1053.

Habibullah pleaded guilty to conspiring with his sister to make false statements on a government form, with the ultimate purpose of acquiring firearms. Importantly, in § 922(a)(6) “the regulated *conduct* is unrelated to the possession of a firearm.” *Id.* (emphasis in original). The statute “prohibits making false statements” not firearm acquisition. *Id.* Thus, § 922(a)(6) did not prohibit Habibullah from purchasing the firearms himself, as he could have done so at the time Fatima bought

them.³ Instead, it prohibited the siblings from lying about the firearm's intended transferee on Form 4473. And that's exactly what they did. So "[b]ecause the Second Amendment does not protect an individual's false statements, the conduct § 922(a)(6) regulates falls outside the scope of the Second Amendment's plain text, and our analysis ends here." *Id.*

Habibullah also argues that the false statement on Form 4473 was not material under § 922(a)(6) because both siblings could legally purchase and possess firearms when the purchase was made. Not so. *See Abramski v. United States*, 573 U.S. 169, 171-72 (2014) (holding that false statements about the actual purchaser of a firearm were material under the statute, even if the involved parties could legally possess firearms). Accordingly, this challenge fails.

CONCLUSION

We affirm the district court's judgment.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge

³ Habibullah points to his ability to legally purchase and own a firearm as support for his Second Amendment challenge here. We see things differently. The siblings went through all this to get Habibullah a discount that he was not entitled to. Paying full price for a firearm is not a Second Amendment violation, and Habibullah cannot skirt responsibility for his participation in this lie.