

The State of South Carolina
In The Court of Appeals

Appeal from Chester County
Court of General Sessions
The Honorable Clifton Newman

Appellate Case No.: 2026-000715
Trial Court case No.: 2024-GS-12-00560
2024-GS-12-00561

State of South Carolina, Respondent
v.

Phillip D. Newberry,

Appellant
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Brief in Support of Motion #2 SC Court of Appeals

Appellant files this Brief in support of Motion to Suppress Evidence in reference to the protective order in the above styled indictment(s). The Motion to suppress falls under issue 1 and issue 11 in appellants Amended statement of issues on Appeal, with emphasis on issue 11 in regards to denial of appellants Motion to suppress, as the order was not illegally obtained by the States Prosecutors but was in fact illegally obtained by subversive means; hence the duality of the approach. As this order has been a focal point in this, and other matters, appellant presents this brief in the most facile approach possible, uncontestable facts and unadulterated law.

The predominant issue is that this order is unconstitutional and unlawful as it infringes / infringed on appellants 14th, 2nd, and 5th amendment rights, and does so due to being obtained by subversive means i.e. quid Pro Quo, and without a hearing or opportunity to be heard. The applicant Patricia Coffy (now married) has never been an intimate partner, cohabitant, nor are Mrs. Coffy and the appellant related.

Appellant has never been arrested for a violent crime, nor has he engaged in violent acts. He has never had firearms violations, complaints, or allegations, and follows firearm laws, safety guidelines, and verifies weapons are not stolen with law enforcement before purchase.

" A Federal Statute Prohibits an individual Subject to a domestic violence restraining order from Possessing a Firearm if that order includes a finding that he "represents a Credible threat to the Physical Safety of [an] Intimate Partner" or a Child of the Partner or individual." United States v. Rahimi, 622 U.S. 680 (2024)

" Section 922 (g)(8) applies only once a court has found that a defendant "represents a Credible threat to the Physical Safety" of another." United States v. Rahimi, 622 U.S. 680 (2024)

" A Prosecution under Section 922 (g)(8) may proceed only if three criteria are met. First the defendant must have received actual notice and an opportunity to be heard before the order was entered. 922 (g)(8)(A). Second the order must prohibit the defendant from either harassing, stalking, or threatening his "intimate partner" or his partners child, or "engaging in other conduct that would place [the] Partner in reasonable fear of bodily injury" to the Partner or child. A defendants "Intimate Partner[s]" include his spouse or any former spouse, the parent of his child, and anyone with whom he cohabitates or has cohabitated. 922 (a)(32) Third, Under Sec. 922 (g)(8)(c) The order must either contain a finding that the defendant "represents a Credible threat to the Physical Safety" of his intimate partner or his partners child..." United States v. Rahimi, 622 U.S. 680 (2024)

Since the appellant was unlawfully subjected to this law, which itself is unconstitutional, this opens the door to a Constitutional Challenge. This is demonstrated by the enforcement of said order. Although the order was enforced, neither Mrs. Cofty nor anyone else is or has been a victim of domestic violence at the hands of the appellant, Therefore rendering the order erroneous, as the foundation upon which it was granted is fraudulent. The order was granted without a hearing, opportunity to be heard, or a trial. Defendant was ushered into court between hearings, without prosecution, and with no evidence, making the credible threat requirement impossible to meet.

This in turn makes a prosecution for any perceived violation involving firearms possession void, as none of the aforementioned elements required for prosecution have been met. The first fails in that appellant was denied due process. The second, Mrs. Cofty has never been an "intimate partner" even under the unconstitutionally vague and incestuous definition provided. And third, no such finding was made.

"Finally, the court rejects the governments contention that [he] may be disarmed simply because he is not "responsible." *United States v. Rahimi*, 622 U.S. 680 (2024)

To address the matter of constitutionality, the statute (18 U.S.C.A. Sec. 922(g)) that is being enforced through this order is plainly unconstitutional. This is best addressed using a binary approach which can be simplified into two rudimentary and fundamental principles in law. Bills of Attainder and the doctrine of Void for vagueness. The majority of 18 U.S.C.A. Sec. 922(g) can be rendered unconstitutional without technical argument or conjecture, using quotes from four Supreme Court cases which will be included and numbered for reference as appellant systematically addresses the shortcomings and defects of 18 U.S.C.A. Sec. 922(g)

1. "It is well established that vagueness challenges to statutes which do not involve first amendment freedoms must be examined in the light of the facts of the case at hand." *United States v. National Dairy Products Corp.*, 372 U.S. 29, 83 S.Ct. 594, 9 L.Ed.2d. 561 (1963)
2. "The government violates the due process clause when it takes away someones life, liberty, or property under a criminal law so vague that it fails to give ordinary people fair notice of the conduct it punishes, or so standardless that it invites arbitrary enforcement." *Kolender v. Lawson*, 461 U.S. 352, 357-358, 103 S.Ct. 1855, 75 L.Ed.2d 903 (1983)
3. "To use the test of *Connally v. General Construction Co.*, 269 U.S. 385, 391

46 S.Ct. 126, 127, 70 L.Ed. 322 The question is whether this Statute either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application" United States v. Harriss, 347 U.S. 612 (1954)

4. "Legislative acts, no matter what their form that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial are bills of attainder prohibited by the Constitution." United States v. Brown, 381 U.S. 437 (1965)

922(g)(1)- This goes beyond the concept of taking guns from felons and/or dangerous criminals, and extends disarming to even nonviolent or misdemeanor offenders, and does so without justification or respect for the Second amendment

922(g)(2)- This includes anyone with an active warrant, even someone who may have a misdemeanor warrant and a license to carry some law enforcement (as in my case) will embellish facts, abuse the system, or simply lie to abuse someone. Ex. My calls and emails to the courthouse were ignored, so I sent my mom there and was told I could request an extension, which I did. I was subsequently ignored, and a warrant issued specifically for the purpose of being labeled as a "fugitive" when in fact by definition I was a refugee. (Please see case brief for above styled case)

922(g)(3)- This falls under Quote # 2 and Quote # 4. This is a bill of attainder as this would be an easily ascertainable group of people could the term "mental defective" be defined or quantified in a fair and constitutional manner. This section does not afford one a judicial trial, and is so vague and standardless that it invites arbitrary enforcement. Fraud, hearsay, and most notably medical malpractice can be used to deprive people of their rights without impartial evidence, and entirely arbitrarily. See: South Carolina Board of Labor, license, and regulation complaint presented as evidence in the above styled case no.

922(g)(6)- dishonorable conditions may not always constitute criminal acts

922(g)(7) - This along with 922(g)(6) are both retaliatory, and applied to an easily ascertainable group in society. This falls under Quote 4. In laymen terms this seems to connote that the conjecture of "if you don't like the direction the military is going, or you don't like that your elected officials don't work for you anymore, then give up your guns and feel free to leave."

922(g)(8)(A) - This falls under Quote #4. "notice" and "an opportunity to participate" are not trials, nor does this statute guarantee fairness or due process. It is merely a subversive method of disarming while giving the illusion of due process.

922(g)(8)(B), (c)(i), (c)(ii) - These are redundant. (B) is a list of criminal offenses. (c)(i) is subjective. The term "credible threat" falls under Quote #2 as it is a vague term that includes no parameters such as "violent history" therefore it invites arbitrary enforcement, as it is standardless. (c)(ii) is also redundant and would likely fall under intimidation or a criminal act listed in (B).

922(g)(9) - This falls under Quote #4, but more importantly is contrary to all legal history. Although it does not "explicitly" deprive one of a right without judicial trial, it does apply to an easily ascertainable group.

Finally, The definition of "Intimate Partner" to the lay, means someone with whom one has had sexual relations. However by definition according to Merriam-Webster's dictionary when applied "Intimate Partner" could mean nearly anyone. Co-workers, roommates, close friends, inmates, patients, and even family. This definition is incestuous in practice even if not intended to be so. It is so vague that it promotes Racketeering, and falls under Quotes #1 and #3.

Although appellant lacks grounds to argue every aspect of 18 U.S.C.A. Sec. 922, it is the precise type of legislation that the founders of this country warned about. It concentrates nearly all regulatory authority to the branch of government most likely to abuse its discretion and authority v.i.g. the Attorney General. The same branch is also given unchecked power to determine who to allow or disallow

to be armed arbitrarily, and in most cases without judicial trial and/or a jury to be the finders of fact or decision makers, instead giving that authority to Law Enforcement or HHS. It essentially monopolizes the firearms industry in favor of American manufacturers and license holders, while limiting Peoples ability to purchase out of State or out of Country without going to an authorized dealer all to control distribution and track gun owners which in turn promotes underground manufacturing and dealing and exacerbates gun violence, all while blaming the "American Gun Manufacturers." It lays the groundwork for School Shootings and the arbitrary disarmament of the American People via the enactment of Marshal law. To Put it Bluntly Section 922 is domestic terrorism.

Finally I offer a technical argument as "food for thought" before ending with a quote. The Second amendment is clear in that the right to Keep and bear arms shall not be infringed. Regardless of Justification or what is "commonly accepted" any modifications to this right including felon disenfranchisement requires constitutional amendment by law. The only valid work around being passing a bill by a two-thirds majority vote making the bill "act" as an amendment. I am aware this is not observed, but technically not a single aspect of Sec. 922 or (most likely) any other law passed with respect to firearms is constitutionally observable or valid. For many years our rights have been slowly doffed without proper observance of the law, and the Judiciary allows it to happen.

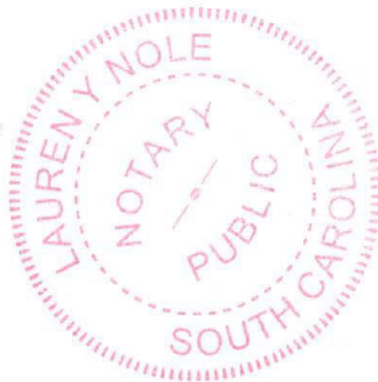
"Nothing is more common than for a free People in times of heat and violence to gratify momentary Passions by letting into the government Principles and Precedents which afterwards Prove fatal to themselves. Of this kind is the doctrine of disqualification, disfranchisement, and banishment by acts of the legislature. The dangerous consequences of this Power are manifest. If the legislature can disfranchise any number of Citizens at Pleasure by general descriptions, it may soon Confine all the votes to a small number of Partisans, and establish an aristocracy or an oligarchy; if it may banish at discretion all those whom Particular Circumstances render obnoxious without hearing or trial, no man can be Safe, nor Know when he may be the innocent victim of a Prevailing faction. The name of liberty applied to Such a Government would be a mockery of Common Sense. - Alexander Hamilton

Appellant has not as of this time been convicted of a felony, so the arguments made about enforcement of the protective order and section 922(g) are valid. appellant did run a background check for college which did confirm a fraudulent conviction on his record, and NCIC showed several fraudulent charges.

Although our democracy is mathematically impossible, it can and must still fit within the concept of freedom, with respect to peoples rights. Section 922 is merely government blaming the people for its own short comings.

Source: Thompson Reuters, West Law, Correctional
Personal Experience

State of: South Carolina
County of: Berkeley
The foregoing instrument was acknowledged
before me 27 day of August, 2026
[Signature]
Your Name Here, Notary Public
My Commission Expires 04-12-2031



8-27-2026

[Signature]

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State of South Carolina, Respondent
✓
Phillip D. Newberry, Appellant

Affidavit and Certificate of Counsel of Record

Section 21 of the Judicial Code Provides as follows: Whenever a Party to any action or proceeding, civil or criminal, shall make and file an affidavit that the Judge before whom the action or proceeding is to be tried or heard has a personal bias or prejudice against him or in favor of any opposite party to the suit, such Judge shall proceed no further therein, but another Judge shall be designated in the manner prescribed in the section last preceding, or chosen in the manner prescribed in section twenty-three to hear such matter." *Berger v. United States*, 255 U.S. 22 (1921)

I Phillip D. Newberry certify that the statements made in this affidavit are made in good faith and without any malicious intent or animus of any kind, and under the assumption that "The Court knows the law."

Nearly Every Judge appellant has been before has engaged in some form of misconduct. Namely taking matters under advice and not disclosing to the appellant the substance of the advice or from whom it will be sought. See: office of disciplinary counsel complaints.

As it pertains to the Judge listed above, The Honorable Clifton Newman, appellant asserts the following -

1. Judge Newman did not hold anyone in contempt for not producing evidence when compelled.
2. Issued the maximum sentence knowing Brady suppression occurred
3. Allowing information to be withheld from the civil side

4. Appellant Cites racial animus From the Civil Rights community. Racial Tension toward vietnamese (Evidence Presented at trial) as well as toward The Civil Rights community in Texas Surrounding the Karmelo Anthony case.
5. President Trump Signed an order banning "rogue Judges" which was violated. Especially with the Practice of Judge Shopping.
6. No Judge in South Carolina takes an oath to the State or U.S. Constitution.

State of: South Carolina
County of: Berkely
The foregoing instrument was acknowledged
before me 27 day of August, 2026
[Signature]
Your Name Here, Notary Public
My Commission Expires 09-12-2031



8-27-2026

[Signature]