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# UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

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UNITED STATES OF AMERICA,
*Plaintiff-Appellee*,

*v*.

ALEXANDER MIGUEL LAYKOVICH,
*Defendant-Appellant*.

No. 25-5766

Appeal from the United States District Court for the Eastern District of Kentucky at Lexington.
No. 5:24-cr-00035-1—Karen K. Caldwell, District Judge.

Argued: June 4, 2026

Decided and Filed: October 29, 2026

Before: GIBBONS, MURPHY, and HERMANDORFER, Circuit Judges.

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## COUNSEL

**ARGUED:** Benjamin D. Allen, GESS, MATTINGLY & ATCHISON, P.S.C., Lexington, Kentucky, for Appellant. Amanda Harris Huang, UNITED STATES ATTORNEY'S OFFICE, Lexington, Kentucky, for Appellee. **ON BRIEF:** Benjamin D. Allen, GESS, MATTINGLY & ATCHISON, P.S.C., Lexington, Kentucky, for Appellant. Amanda Harris Huang, Charles P. Wisdom, Jr., UNITED STATES ATTORNEY'S OFFICE, Lexington, Kentucky, for Appellee.

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## OPINION

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MURPHY, Circuit Judge. In a famous case from 1761, James Otis passionately argued that British "writs of assistance" (general search warrants) "violated the natural rights of Englishmen." David McCullough, *John Adams* 61–62 (2001). Otis's advocacy did not just set the stage for the Fourth Amendment. As John Adams would later recall, his advocacy

represented "the first scene of the first act of opposition to the arbitrary claims of Great Britain[.]" *Id.* at 62. So "[t]hen and there the child independence was born." *Id.* But this case concerns something less well known about Otis. Sadly, he suffered from bouts of insanity in later years. *Id.* At least one witness once saw him "madly firing . . . guns outside of his window." Gerald N. Grob, *The Mad Among Us: A History of the Care of America's Mentally Ill* 6 (1994).

Today, federal law deters this dangerous conduct by making it a crime for someone "who has been adjudicated as a mental defective or . . . committed to a mental institution" to possess a firearm. 18 U.S.C. § 922(g)(4). Section 922(g)(4) began to apply to Alexander Laykovich when a state court committed him because his mental illness made him a serious public-safety risk. Yet the police later stopped Laykovich on his way to Fort Knox in full body armor with enough firearms to inflict mass casualties. Laykovich pleaded guilty to violating § 922(g)(4). On appeal, he argues that this provision is facially unconstitutional under the Second Amendment. But the English traditions that our country adopted have long permitted the "forcible civil detainment" of those whose mental illness makes them "a danger" to public safety. *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997). And at least as applied to Laykovich, § 922(g)(4)'s gun-possession ban is "relevantly similar" to these traditional detention laws because it serves the same public-safety purpose and lasts only until Laykovich proves he no longer poses a threat. *See N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 29 (2022). His facial challenge under the Second Amendment thus falls short. Because his separate sentencing claims also lack merit, we affirm.

## I

Early in the morning on January 25, 2024, a sheriff's deputy watched a vehicle repeatedly swerve over the center and edge lines of a road near Stanford, Kentucky. The deputy pulled over the driver, who turned out to be Laykovich. While walking toward the car, the deputy noticed that Laykovich was wearing body armor and a body camera. After Laykovich got out of the car, the deputy also spotted a gun on his seat. A police dog soon alerted to the presence of illegal drugs. A search of the car uncovered eight firearms (including two rifles), a large amount of

ammunition, knives, a gasoline can, marijuana, and a pill that contained fentanyl. The police arrested Laykovich.

They later interviewed him. He claimed that he had been traveling to Fort Knox "to discuss a security clearance matter." Sent. Tr., R.68, PageID 374. He also admitted that he had been using marijuana. Worried about the suspicious circumstances, the local police contacted the FBI.

FBI agents discovered that Laykovich could not possess firearms because he had previously been "adjudicated as a mental defective[.]" 18 U.S.C. § 922(g)(4). The events that gave rise to this ban occurred a year earlier in January 2023. At that time, paramedics encountered "an emotionally disturbed" Laykovich in the parking lot of a hospital in St. Louis, Missouri. Police Rep., R.46, PageID 202. The paramedics called the police because Laykovich had a gun. When speaking to an officer in the back of an ambulance, Laykovich "began to point and gesture toward" imaginary people and "made incoherent statements" about them. *Id.*, PageID 203. The officer also interviewed Laykovich's girlfriend, Juliana Halbrooks. Halbrooks explained that, while the couple had been driving to the hospital to seek treatment for Laykovich's headache, he took his hands off the steering wheel and held them over his head. Halbrooks had to grab the wheel to avoid a crash. She believed that Laykovich had mental-health problems, as he had expressed suicidal thoughts in the past. So the officer confiscated Laykovich's firearm, and the paramedics took him to the hospital.

A week later, the hospital petitioned a state court for Laykovich's continued involuntary detention. The court granted the petition, finding that Laykovich might cause "serious harm to himself or to others" because of his mental illness. Judgment, R.20-1, PageID 62. The court ordered his involuntary hospitalization for 21 days so that he could obtain mental-health treatment. It also found that Laykovich was "incompetent for purposes of" Missouri's concealed-carry laws and barred him from possessing firearms. *Id.*

After discovering this information, the FBI treated Laykovich's attempt to visit Fort Knox while heavily armed as a narrowly "averted mass casualty event." Sent. Tr., R.68, PageID

402. Agents obtained a warrant to search his storage unit in Wisconsin. There, they found fifteen more firearms and two boxes of explosive devices.

Ultimately, the federal government brought a two-count indictment against Laykovich. As relevant now, the indictment alleged that Laykovich knowingly possessed a firearm after having "been adjudicated as a mental defective," in violation of 18 U.S.C. § 922(g)(4). Laykovich moved to dismiss this charge on the ground that § 922(g)(4) was "facially unconstitutional" under the Second Amendment. Br., R.26-1, PageID 88. The district court rejected his claim. *See United States v. Laykovich*, 2024 WL 4376265, *4 (E.D. Ky. Oct. 2, 2024). It reasoned that the government could constitutionally disarm at least some individuals whom a court has found to have a mental illness that creates a risk of harm. *See id.*

Once the court rejected Laykovich's Second Amendment claim, the parties entered into a plea agreement. Laykovich agreed to plead guilty to the § 922(g)(4) charge in exchange for the government's dismissal of the other count. But he reserved the right to appeal both his facial constitutional challenge and his ultimate sentence. In the plea agreement, the parties also disputed whether the district court should impose a guidelines enhancement that applied if Laykovich had induced Halbrooks to buy him some of the firearms found in his possession.

At sentencing, the parties continued to argue over this enhancement. The government presented an FBI agent's testimony. This testimony showed that Laykovich had tried to buy a firearm in February 2023 but could not do so because of his mental-illness adjudication. After this failed attempt, Halbrooks bought eight of the firearms found in Laykovich's possession (including five in the car he was driving to Fort Knox). Although Halbrooks denied buying these firearms for Laykovich, she made many inconsistent statements.

The district court sided with the government. It found that the "circumstantial evidence"—that Halbrooks bought many of the guns found in Laykovich's possession after a store refused to sell him one—showed that Halbrooks had acted as a straw purchaser for Laykovich and rebutted her "self-serving statement" to the contrary. Sent. Tr., R.68, PageID 394. The court thus applied the enhancement, which triggered a guidelines range of 46 to 57 months' imprisonment. It chose a 48-month sentence.

II

On appeal, Laykovich raises one challenge to his conviction and two challenges to his sentence. As for his conviction, he argues that § 922(g)(4) facially violates the Second Amendment. As for his sentence, he argues that the district court misapplied the straw-purchaser enhancement and imposed an excessive prison term. We will consider these arguments in turn.

A. Second Amendment Challenge

Laykovich first renews his facial challenge to § 922(g)(4) under the Second Amendment. This provision prohibits anyone "who has been adjudicated as a mental defective or who has been committed to a mental institution" from possessing firearms. 18 U.S.C. § 922(g)(4). We review Laykovich's challenge to the prohibition de novo. *See United States v. Gailes*, 118 F.4th 822, 824 (6th Cir. 2024); *United States v. Gore*, 118 F.4th 808, 811 (6th Cir. 2024). His arguments address a jurisprudential area that has recently changed. So we will describe the background law before applying the current standards to § 922(g)(4). Under those standards, that provision has at least some constitutional applications. We thus must reject Laykovich's facial challenge.

1. Background Law

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. In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court read this text to establish an "individual right to possess and carry weapons in case of confrontation." *Id.* at 592. *Heller* reasoned that the Second Amendment "codified a *pre-existing* right" to possess weapons. *Id.* This preexisting right arose from what St. George Tucker called "the first law of nature": the general "right of self defence[.]" 1 St. George Tucker, *Blackstone's Commentaries*, app. at 300 (1803); *see Heller*, 554 U.S. at 584–86, 594, 599. Although the preexisting right to bear arms was not an "unlimited" guarantee that barred all firearm regulations, *Heller* did not conclusively identify the *interpretive method* that courts should use to distinguish regulations that pass muster from those that do not under the Second Amendment. 554 U.S. at 626.

Yet the proper interpretive method cannot rest on the text alone. One might say that most gun regulations "infringe[]" the "right of the people to keep and bear Arms" under a literal meaning of the words. U.S. Const. amend. II. To give one example, a ban on the ability of felons or the mentally ill to possess (that is, to "keep") firearms would seemingly violate the Second Amendment if courts looked only to the dictionary definitions of the codified text. *Id.*; *see United States v. Williams*, 113 F.4th 637, 648–50 (6th Cir. 2024). Yet *Heller* stated in dicta that courts should not read its opinion as affecting "longstanding prohibitions on the possession of firearms by felons and the mentally ill" (among other traditional laws). 554 U.S. at 626–27 & n.26. This example illustrates the key question: If a firearm regulation ostensibly conflicts with the Second Amendment's "literal language," how should courts decide whether it nevertheless falls within the limits on the right that *Heller* referenced? *Wolford v. Lopez*, 609 U.S. 185, 196 (2026).

The judiciary's answer to this question has changed over time. Immediately after *Heller*, the circuit courts used "means-ends scrutiny" to decide which gun regulations survived and which did not. *Williams*, 113 F.4th at 643 (citing *United States v. Greeno*, 679 F.3d 510, 518 (6th Cir. 2012)); *see Bruen*, 597 U.S. at 17–19. Under this policy-laden approach, courts asked whether a regulation served an important enough purpose when balanced against its intrusion on the right to possess and carry a firearm. *See Bruen*, 597 U.S. at 18–19.

Indeed, we used this scrutiny when we previously considered a constitutional challenge to § 922(g)(4). *See Tyler v. Hillsdale Cnty. Sheriff's Dep't*, 837 F.3d 678, 688–99 (6th Cir. 2016) (en banc) (opinion of Gibbons, J.). In *Tyler*, a Michigan court committed Clifford Tyler to a mental-health facility for a few weeks in 1986 while he went through a contentious divorce. *Id.* at 683. Tyler's commitment triggered § 922(g)(4)'s ban on his firearm possession. *Id.* at 684. In the ensuing decades, though, Tyler showed no signs of mental illness, held a stable job, remarried, and "repaired his relationship with his ex-wife." *Id.* at 683–84. He thus sued in 2012, arguing that § 922(g)(4) violated the Second Amendment by indefinitely prohibiting him from possessing firearms. *Id.* at 684. Applying means-ends scrutiny, our lead opinion held that § 922(g)(4) served a "compelling" interest by seeking to prevent those with mental illnesses from shooting others or attempting suicide. *Id.* at 693. Yet Tyler had no pathway to restore his right

to possess arms. *Id.* at 682–84. So the lead opinion also held that such a *permanent* ban on gun possession (even after Tyler recovered) did not reasonably fit the compelling interest in preventing those with ongoing mental illnesses from harming themselves or others. *See id.* at 693–99.

After *Tyler*, however, the Supreme Court in *Bruen* jettisoned the means-ends scrutiny that circuit courts had used to identify the limits on the Second Amendment's scope. *See* 597 U.S. at 19–24. In place of this scrutiny, *Bruen* adopted a two-part inquiry. *Id.* at 24. Challengers must first prove that the regulation restricts conduct that falls within the "Second Amendment's plain text[.]" *Id.* For example, they must show that they are among the "people" that the "right" protects and that they seek to possess ("keep") or carry ("bear") weapons that qualify as "Arms" under the Second Amendment. U.S. Const. amend. II; *see Wolford*, 609 U.S. at 195.

If challengers make this showing, the burden shifts to the government to prove that a regulation does not infringe the right because it comports "with the Nation's historical tradition of firearm regulation." *Bruen*, 597 U.S. at 24. This second step exists because, as we have said, the preexisting right that the Second Amendment codified did not authorize every activity that might fall within the amendment's text. *See id.* at 20, 25; *United States v. Hemani*, 608 U.S. 772, 779–80 (2026). To decide whether a modern law comports with this regulatory tradition, courts now must examine "historical materials" relevant to firearm regulation—not policy considerations about whether a particular regulation serves an important purpose. *Bruen*, 597 U.S. at 27.

But not all historical data points are alike. Courts must distinguish between two types of traditional practices. On the one hand, the Framers sometimes placed a right in the Constitution to *depart* from a past practice. Take the Sixth Amendment. The Framers adopted its right to counsel to jettison the "English common-law rule" barring defendants from consulting counsel in felony cases. *United States v. Ash*, 413 U.S. 300, 306 (1973). And it would be a strange interpretive rule that narrowed a right's scope using the common-law practice that the right was meant to eliminate. Likewise, the Supreme Court refused to rely on the "so-called Black Codes" to identify the scope of the right to bear arms incorporated into the Fourteenth Amendment

because the Framers of that amendment sought to prohibit those codes. *Wolford*, 609 U.S. at 212.

On the other hand, the Framers sometimes placed a right in the Constitution with the understanding that it would not affect well-established legal practices. Take the Free Speech Clause. Even if the ordinary meaning of that clause's text might prohibit perjury laws or laws banning threats of violence, nobody read the phrase "the freedom of speech" as allowing a witness to lie on the stand or an aggressor to threaten a victim. U.S. Const. amend. I; *see Counterman v. Colorado*, 600 U.S. 66, 74 (2023); *United States v. Dunnigan*, 507 U.S. 87, 97 (1993). These examples of entrenched and unchallenged legal prohibitions can help courts determine a right's "outer limits[.]" *See Bruen*, 597 U.S. at 22, 26–31. The Supreme Court has thus said that the longstanding (and unquestioned) ban on carrying guns in courthouses shows that the Second Amendment permits modern applications of this old regulation. *See id.* at 30.

It is these second types of "historical analogues" that provide the "best evidence" of the limits on the Second Amendment. *Wolford*, 609 U.S. at 196. So how should courts use these analogues to identify the legal rules that govern today? Some cases are easy: We may assume that the Second Amendment permits any widespread and "well-accepted" gun restriction in existence at the time of its adoption. *Id.*; *cf. McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 372 (1995) (Scalia, J., dissenting). A modern law that represents "a 'dead ringer' or 'historical *twin*'" to such an old restriction would likewise pass muster. *Wolford*, 609 U.S. at 197 (quoting *Bruen*, 597 U.S. at 30). Our country, for example, has long banned the possession of stolen goods or the use of firearms to commit crimes. *See Gore*, 118 F.4th at 812–13 (citing stolen-goods statutes); *United States v. Risner*, 129 F.4th 361, 369–70 (6th Cir. 2025) (Thapar, J., concurring) (citing firearm crimes). Congress thus could constitutionally make it a crime for a person to knowingly receive a stolen gun or to use a gun in a drug-trafficking crime. *See Gore*, 118 F.4th at 812–13 (upholding 18 U.S.C. § 922(j)); *Risner*, 129 F.4th at 368–69 (upholding 18 U.S.C. § 924(c)(1)(A)).

That said, the Court has refused to limit the government's regulatory power to the specific restrictions that existed in 1791 (or 1868). *See Wolford*, 609 U.S. at 196–97. After all, the lack of a precise analogue might reveal only a democratic choice that the government did not

need to restrict the practice *at that time*—not a belief that the practice fell within the right to keep and bear arms and thus could *never* be restricted. *See United States v. Rahimi*, 602 U.S. 680, 739–40 (2024) (Barrett, J., concurring); *see also McIntyre*, 514 U.S. at 373 (Scalia, J., dissenting). The Court thus will uphold modern laws that do not match historical limits if they are "relevantly similar" to those limits. *Wolford*, 609 U.S. at 196 (quoting *Bruen*, 597 U.S. at 29). To decide whether a modern law is similar enough to a historical analogue, the Court has asked both "why" and "how" questions. *Bruen*, 597 U.S. at 29. *Why* does the modern law restrict the right to keep and bear arms compared to the relevant analogues? *See Hemani*, 608 U.S. at 780, 783–90. And *how* does the modern law restrict the right compared to those analogues? *See Rahimi*, 602 U.S. at 698–99.

Ultimately, these questions require courts to "exercise" their legal "judgment" when deciding whether a modern law is "close enough" to a historical limit that it comports with our regulatory tradition. *Wolford*, 609 U.S. at 197. Courts must not identify those historical limits "at such a high level of generality" that they allow all gun regulations and so eviscerate the underlying "right" to keep and bear arms. *Rahimi*, 602 U.S. at 739–40 (Barrett, J., concurring). But they also must not identify the historical limits at such a low level of generality that they allow only identical "law[s] trapped in amber" from earlier times. *Id.* at 691 (majority opinion).

We and the Supreme Court have applied *Bruen*'s approach to several bans in 18 U.S.C. § 922. As a general matter, these cases have relied on various analogues to uphold modern bans on the possession of guns by dangerous individuals whose conduct has shown that they pose a risk of "violence" to others. *Rahimi*, 602 U.S. at 698. Four examples prove this point.

*First*, the Supreme Court upheld § 922(g)(8)—which bars gun possession by those subject to domestic-violence restraining orders—against a facial challenge. *See id.* at 702. As relevant here, § 922(g)(8) applies if the court issuing the restraining order has found that the defendant poses "a credible threat to the physical safety of" an intimate partner or a child of the partner or the defendant. 18 U.S.C. § 922(g)(8)(C)(i). *Rahimi* held that this ban "fit[] comfortably within" a regulatory tradition of laws designed to deter the misuse of firearms by those "who threaten physical harm to others[.]" 602 U.S. at 690. Specifically, the Court found § 922(g)(8) similar to two historical analogues: "surety laws" (which required individuals to post

a bond to carry a firearm if a court found that they posed a risk of misbehavior) and "going armed" laws (which prevented individuals from carrying dangerous weapons in public in a way that caused fear). *Id.* at 695–98. Starting with the "why" question, the Court highlighted that these laws all served the same purpose: they regulated gun use "to mitigate" the "threats of physical violence" that a party had shown. *Id.* at 698. Turning to the "how" question, the Court reasoned that the laws imposed similar burdens on the right to possess a gun. *See id.* at 698–700. They, for instance, all required a judicial finding that a person had threatened (or might threaten) others. *Id.* at 698–99. Section 922(g)(8) also matched the surety laws in that these gun restrictions applied only for a limited time. *Id.* at 699. And the section was less burdensome than the going-armed laws because it triggered only temporary firearm dispossession—not prison time. *Id.*

*Second*, we relied on *Rahimi* to reject a facial challenge to § 922(g)(1)'s ban on felons possessing firearms. *See Williams*, 113 F.4th at 648–57. In *Williams*, we examined the surety and going-armed laws (among other examples) to identify a regulatory tradition of legislatures barring "groups" deemed "dangerous" from possessing firearms unless individuals within the groups proved that they "posed no danger to peace." *Id.* at 657. We added that § 922(g)(1) fits this tradition because it sought to "disarm individuals" (felons) who Congress had long deemed dangerous. *Id.* At the same time, we left open the possibility that some felons could prove their lack of dangerousness in as-applied challenges. *See id.* at 661; *see also Gailes*, 118 F.4th at 824–30.

*Third*, we next explained that § 922(g)(1)'s ban on possessing guns would always (or at least nearly always) pass muster as applied to the *temporary* period when felons remained on probation, parole, or supervised release. *See United States v. Goins*, 118 F.4th 794, 802–05 (6th Cir. 2024). To justify this conclusion, we invoked the historical laws authorizing the forfeiture of a convicted criminal's property (including firearms) during the time when the criminal completed a criminal sentence. *See id.* at 801–02 (citing *United States v. Moore*, 111 F.4th 266, 269–72 (3d Cir. 2024)). As Judge Bush added, the historical forfeiture laws applied even when a "convict served out his sentence in a non-custodial setting." *Id.* at 807 (Bush, J., concurring in part).

*Fourth*, we relied on a different historical analogue to reject a facial challenge to § 922(n)'s ban on the receipt or transport of a firearm by an individual subject to a felony indictment. *See Gore*, 118 F.4th at 814–17. *Gore* reasoned that this ban was "relevantly similar to" historical "pretrial detention" laws. *Id.* at 814. As for the "why" behind the laws, both § 922(n) and the traditional pretrial-detention requirement "further[ed] public safety" by preventing a defendant from harming others between the indictment and the trial. *Id.* And as for "how" they did so, § 922(n) imposed a "lesser burden" than "detention" because the defendant could remain free. *Id.* at 815. Section 922(n) also applied only for a limited period and did not even bar the possession of firearms during this period by those who owned them at the time of the indictment. *See id.*

Despite these examples, one should not take this rule (that the government can bar anyone it deems dangerous from possessing a firearm) too far. In *Hemani*, the Court held that at least some applications of § 922(g)(3)—which bars gun possession by anyone "who is an 'unlawful user of' or 'addicted to' a 'controlled substance'"—flunk *Bruen*'s test. 608 U.S. at 779–95 (quoting 18 U.S.C. § 922(g)(3)). The government argued that § 922(g)(3) was similar to traditional laws regulating the behavior of habitual drunkards. *See id.* at 781–82. The Court disagreed. When examining the "why" question, it saw a mismatch between the purposes of these habitual-drunkard laws and § 922(g)(3). *Id.* at 783–90. The habitual drunkards subject to the traditional laws were "practically incapacitated and incapable of managing their affairs." *Id.* at 785. Yet § 922(g)(3) covered everyone who regularly used a controlled substance—even if this drug use did not have an "incapacitating effect" on them. *Id.* at 785–86. Next, even if § 922(g)(3) existed to protect society from gun violence, the laws regulating habitual drunkards served a different purpose: to rehabilitate these individuals. *Id.* at 787–90. Turning to the "how" question, the Court reasoned that the traditional laws regulating habitual drunkards provided for pre-deprivation "process" before they could affect anyone's liberty. *Id.* at 790–91. But § 922(g)(3) banned firearm possession without any process. *Id.* All told, *Hemani* narrowly rejected the government's "ambitious" argument that it may disarm anyone who regularly uses illegal drugs. *Id.* at 794–95. Yet it left open other questions—such as whether § 922(g)(3) could apply to specific drug users whose drug addictions rendered them dangerous. *Id.* at 794; *cf. United States v. VanOchten*, 150 F.4th 552, 560–61 (6th Cir. 2025).

2. Application of *Bruen*'s Test to § 922(g)(4)

This case requires us to address how *Bruen*'s historical approach applies to § 922(g)(4)'s ban on gun possession by anyone "who has been adjudicated as a mental defective" (the part of the statute that covered Laykovich). 18 U.S.C. § 922(g)(4). Before answering that question, we start with three disclaimers. Disclaimer One: We held in *Tyler* that this part of § 922(g) serves a compelling interest but that it lacks a reasonable fit to this interest for individuals who have long recovered from their mental illnesses. *See Tyler*, 837 F.3d at 693–99 (opinion of Gibbons, J.). Future panels typically must follow such a published precedent. *See RLR Invs., LLC v. City of Pigeon Forge*, 4 F.4th 380, 390 (6th Cir. 2021). But we may reassess our decisions when their reasoning conflicts with the Supreme Court's more recent guidance. *See United States v. Fields*, 53 F.4th 1027, 1046–47 (6th Cir. 2022). And *Tyler*'s means-ends scrutiny conflicts with *Bruen*'s historical approach. So, as we suggested in related cases, *Tyler*'s mode of analysis no longer binds us. *See Williams*, 113 F.4th at 645–48; *see also Gailes*, 118 F.4th at 825–26.

Disclaimer Two: In dictum, *Heller* described laws that banned "felons and the mentally ill" from possessing firearms as "presumptively lawful" under the Second Amendment. 554 U.S. at 626–27, 627 n.26. And the Court has often repeated this language. *See Wolford*, 609 U.S. at 193; *Hemani*, 608 U.S. at 791 n.6; *Rahimi*, 602 U.S. at 699. We give "substantial weight" to this type of dicta. *Fields*, 53 F.4th at 1048 n.13. But the Court has never evaluated § 922(g)'s bans on firearm possession by the mentally ill or felons—let alone engaged in the historical inquiry that *Bruen* demands. *See Williams*, 113 F.4th at 648. We thus did not view ourselves as bound by this dictum in *Williams* when we considered the felon-in-possession ban. *See id.* And the Court in *Heller* did not explain what it meant by "mentally ill." Mental illness is a broad concept that could cover everything from a severe case of schizophrenia to a mild case of attention deficit hyperactivity disorder. *See United States v. Gould*, 163 F.4th 795, 800 (4th Cir. 2026); *see also Tyler*, 837 F.3d at 708 (Sutton, J., concurring). Besides, § 922(g)(4) does not limit itself to those currently suffering from mental illness; it sweeps in those who were "adjudicated as a mental defective" years ago. 18 U.S.C. § 922(g)(4). If anything, then, we have less reason to follow this dictum here than we did in *Williams*. *See Tyler*, 837 F.3d at 686–88 (opinion of Gibbons, J.).

Disclaimer Three: Laykovich chose to challenge § 922(g)(4) on its face. His choice "comes at a cost" because it magnifies his burden when compared to the burden on as-applied challengers. *Doe v. Burlew*, 165 F.4th 525, 531–32 (6th Cir. 2026) (quoting *Moody v. NetChoice, LLC*, 603 U.S. 707, 723 (2024)). Laykovich must show that "no set of circumstances exists" in which the government could prosecute a defendant for violating § 922(g)(4). *Rahimi*, 602 U.S. at 693 (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987)).

Laykovich has not met this demanding burden for a simple reason: § 922(g)(4) may apply "to the facts of [his] own case." *Id.* We start with a refresher of those facts. In January 2023, a Missouri court ordered Laykovich's detention for 21 days because his "mental illness" created "a likelihood of serious harm to himself or to others[.]" Judgment, R.20-1, PageID 62. The court also found him "incompetent" under Missouri's concealed-carry laws and banned him from possessing firearms. *Id.*; *see* Mo. Rev. Stat. §§ 571.101.2(8); 571.117.1. Missouri law allows Laykovich to petition a court for the "removal" of this ban on the ground that he no longer poses a threat to public safety. *See* Mo. Rev. Stat. § 571.092.1, .3(1). Yet Laykovich never filed such a petition. Instead, he drove to Fort Knox wearing body armor and possessing eight guns.

Did Laykovich have a Second Amendment right to possess these weapons? He can at least make it past *Bruen*'s first step because his conduct falls within the "plain text" of the Second Amendment. 597 U.S. at 24; *see Wolford*, 609 U.S. at 195. The government does not dispute that Laykovich remained part of the "people" protected by the Second Amendment even after he was "adjudicated as a mental defective" by a Missouri court. U.S. Const. amend. II; 18 U.S.C. § 922(g)(4); *cf. Williams*, 113 F.4th at 648–50. It also does not dispute that the guns found in Laykovich's vehicle qualified as "Arms" under the Second Amendment. U.S. Const. amend. II. And it does not dispute that § 922(g)(4) prohibits Laykovich from "keep[ing]" these firearms, and so it presumptively "infringe[s]" his "right" to possess them. *Id.*

But Laykovich's facial challenge collapses at *Bruen*'s second step. Section 922(g)(4)'s ban on gun possession by those who have been "adjudicated as a mental defective" is "relevantly similar" to traditional laws regulating those with severe mental illnesses. 18 U.S.C. § 922(g)(4); *Bruen*, 597 U.S. at 29. Several well-researched opinions have already described these laws. *See Gould*, 163 F.4th at 802–03; *United States v. Veasley*, 98 F.4th 906, 913–15 (8th Cir. 2024);

*Tyler*, 837 F.3d at 705–06 (Batchelder, J., concurring in most of the judgment). We will summarize them before comparing their "purpose and operation" to § 922(g)(4)'s. *Hemani*, 608 U.S. at 780–81.

a. Historical Analogues

In general, society has long recognized that individuals suffering from severe mental illness might pose dangers to themselves and to others. And society has long responded to these dangers by restricting the liberty of these individuals until their mental health has improved.

Start with the English traditions that our country inherited. English authorities treated individuals with serious forms of mental illness (whom they described as "lunatics" or "*non compos mentis*") as having possessed their mental "understanding" at one time, but as having "lost the use of [their] reason" because of "disease, grief, or other accident[.]" 2 Tucker, *supra*, at 304. Yet English authorities also viewed these mental illnesses as *temporary* "accidental misfortunes" that "may be removed" if individuals regained their faculties. *Id.* That is, they viewed "lunacy" as "a partial derangement of the intellectual faculties, the senses returning at uncertain intervals." Anthony Highmore, *A Treatise on the Law of Idiocy and Lunacy* 4 (Am. ed. 1822). As one English source put it, "[a] lunatic is never to be looked upon as irrecoverable[.]" *Id.* at 73; *see Tyler*, 837 F.3d at 705–06 (Batchelder, J., concurring in most of the judgment).

Under English law, people suffering from mental illness could lose two basic rights if that illness created a risk of violence. For one thing, they could lose their liberty. "On the first attack of lunacy," Blackstone explained, these individuals were usually "confine[d]" by family members in "private custody" with the hope that they would quickly recover. 2 Tucker, *supra*, at 305. In 1744, though, England passed an act authorizing two justices of the peace to issue a warrant to "apprehend[]" those whose "lunacy" rendered them "dangerous" and to keep them "locked up in some secure place" as long as their "lunacy or madness shall continue[.]" Vagrancy Act of 1744, 17 Geo. 2 c. 5, §§ 20–21 (Gr. Brit.); *see* Henry Care, *English Liberties, or the Free-Born Subject's Inheritance* 329 (1774); Highmore, *supra*, at 136–37. For another thing, those with mental illnesses could lose the right to control their property. The King's representatives would act as their guardians with the authority to decide on the proper use of this

property. 2 Tucker, *supra*, at 305; *see* Highmore, *supra*, at 13–15. That said, the mentally ill could "petition" to have their liberty and property rights restored by showing that they had recovered. Highmore, *supra*, at 73.

Because the "colonial perceptions of madness did not differ in fundamental ways from those of the mother country," the same legal framework persisted on this side of the Atlantic. Grob, *supra*, at 9, 13. In the "predominantly rural" colonial society, the families of the mentally ill or the local towns in which they lived presumptively "handled" their care "on an ad hoc and informal basis" using public funds when necessary. *Id.* at 5–7, 14–16. If, however, their conduct "appeared to threaten public safety," colonial laws allowed local officials to detain them and to manage their property. *Id.* at 16. As early as 1676, Massachusetts passed a law to regulate "distracted persons" who had become "Unruly" and caused "Damage" to others. Act of May 3, 1676, 1676–1683 Mass. Bay Colony Laws & Orders 48, 48. This law authorized local officials "to take Care of all such persons that they do not Damnifie others" and to manage their "Estates in the Times of their Distemperature" for their (and their family's) benefit. *Id.* The law also "served as a model for legislation concerning the insane in other New England colonies." Albert Deutsch, *The Mentally Ill in America: A History of Their Care and Treatment from Colonial Times* 43 (1937); *see, e.g.*, Act of Mar. 21, 1776, *reprinted in Perpetual Laws of the State of New Hampshire, 1776–1788*, at 235–37 (1789); Ideots, and Distracted Persons, 1702 Conn. Colony Acts & Laws 54, 54 (1702).

During the eighteenth century, the colonies detained the mentally ill in different ways. In rural areas, officials might order the construction of a "one-person asylum" to confine them. *Veasley*, 98 F.4th at 914; *see* Deutsch, *supra*, at 41–43. In urban areas, officials might confine them in jails, poorhouses, or workhouses. Deutsch, *supra*, at 41, 52–53, 419; Grob, *supra*, at 43. At first, the colonies imprisoned the dangerously insane solely to incapacitate them; "no thought was given to therapy." Deutsch, *supra*, at 419. In the second half of the century, colonies began to establish venues not just for confinement but also for treatment. In 1751, Pennsylvania appropriated funds to build the first hospital that would receive both "lunaticks" and the sick. Act of May 11, 1751, ch. 390, 1745–1759 Pa. Acts 208, 208–11; *see* Deutsch, *supra*, at 58–66; *Veasley*, 98 F.4th at 914–15. In 1769, Virginia passed a law to create the first hospital

exclusively for "idiots, lunatics, and other persons of insane mind[.]" 2 Tucker, *supra*, at 305 n.31; 10 Geo. 3 c. 28, at 13 (Va.); Deutsch, *supra*, at 66, 69–71. Other States followed suit. *See, e.g.*, Act of Jan. 20, 1798, ch. 102, 1797 Md. Laws.

The same legal framework continued through the Constitution's ratification. From the founding, the States have authorized the "forcible civil detainment of people who are unable to control their behavior and who thereby pose a danger to the public health and safety." *Hendricks*, 521 U.S. at 357. Consider four founding-era examples. In 1788, New York passed a law modeled on the English Vagrancy Act of 1744. *See* Act of Feb. 9, 1788, ch. 31, 2 N.Y. Laws, 1785–1788, at 643, 643–45. This law noted that "two or more justices of the peace" could issue a "warrant" to authorize a "lunatick or mad person" "to be apprehended and kept safely locked up in some secure place[.]" *Id.* at 645. Four years later, Virginia consolidated its laws on the "restraint, support and maintenance of idiots and lunatics[.]" Act of Dec. 24, 1792, *reprinted in* 1 Samuel Shepard, *The Statutes at Large of Virginia, 1792–1806*, ch. 55, at 162 (Richmond 1835). Under this law, a justice of the peace could order the arrest of "any person whose mind" might be "unsound," and three justices would then hold a hearing over whether to "confine[]" the person in Virginia's mental hospital. *Id.* at 163. Around the same time, Connecticut passed a law allowing local officials to order "any distracted or lunatic Person" "who is dangerous" to "be confined in some suitable place[.]" Act of Oct. 17, 1793, *reprinted in* 1 *Public Statute Laws of Connecticut* tit. 88, ch. 1, § 18, at 386 (Hartford, Hudson & Goodwin 1808). And Massachusetts passed a law allowing two justices of the peace to send to a "house of correction" any "furiously mad" "lunatic" who is "dangerous to the peace and safety of the good people[.]" Act of Feb. 27, 1798, ch. 62, § 3, 1797 Mass. Acts 450, 451; *see also* Act of Feb. 28, 1820, § 9, *reprinted in* 1 Lucius Q.C. Elmer, *A Digest of the Laws of New Jersey* 239 (Bridgeton, James M. Newell 1838).

As new States entered the Union, they too enacted detention laws throughout the nineteenth century. Kentucky, for example, incorporated Virginia's detention laws. *See* 2 William Littell, *The Statute Law of Kentucky*, App. at 578 (1810). And Maine incorporated Massachusetts's. Act of Mar. 15, 1821, *reprinted in* 1 Francis O.J. Smith, *Laws of the State of Maine* ch. 111 § 6, at 542 (Portland, Thomas Todd & Colman, Holden & Co. 1834); *see also* Act

of Feb. 21, 1855, ch. 65, 1855 Ind. Acts 133, 133; Act of Jan. 22, 1825,1 Mo. Laws 429, 433 (1825); Act of Feb. 13, 1815, ch. 48, 1814 Ohio Laws 161, 161.

The States provided different procedural protections for those subject to detention due to their mental illness. Some (like Virginia or New York) required justices of the peace to decide on this detention but gave them "a lot of discretion" when doing so. *Veasley*, 98 F.4th at 914; *see* 2 Tucker, *supra*, at 305 n.31; Act of Feb. 9, 1788, ch. 31, 2 N.Y. Laws, 1785–1788, at 643, 645. Others (like Ohio) required a jury to make a dangerousness finding. Act of Feb. 13, 1815, ch. 48, § 1, 1814 Ohio Laws 161, 161. And still others (like Connecticut) gave the detention power to executive officials, putting the onus on detainees to "petition" a court for "enlargement from confinement[.]" 1 *Public Statute Laws of Connecticut*, *supra*, tit. 88, ch. 1, §§ 18, 20, at 386–87. Apart from these statutory protections, courts also held that the common law permitted private parties to detain the mentally ill only if they posed a danger to others and only for the limited period required to initiate legal proceedings. *See Colby v. Jackson*, 12 N.H. 526, 530–33 (1842); Henry F. Buswell, *The Law of Insanity in its Application to the Civil Rights and Capacities and Criminal Responsibility of the Citizen* § 23, at 33–34 (1885); Thomas M. Cooley, *A Treatise on the Law of Torts* 176–80 (Chicago, Callaghan & Co. 1879). These courts also held that a judicial decision to find a person insane—which could deprive the person of both "liberty" and property—had to satisfy basic due-process standards, including notice and an opportunity to be heard. *Chase v. Hathaway*, 14 Mass. 222, 223–26 (1817); *see* Buswell, *supra*, § 55, at 69–70. According to one source, however, a "commitment" to a mental asylum "could be effected with the greatest of ease" in practice. Deutsch, *supra*, at 419; *see Gould*, 163 F.4th at 803. These individuals at least could seek "a writ of *habeas corpus* to determine the legality" of their detention. Deutsch, *supra*, at 435; *see In re Oakes*, 1845 Mass. LEXIS 193, at *3–5 (Mass. Jan. 1, 1845).

Should these state detention laws qualify as the kinds of "historical analogues" that we may use to interpret the Second Amendment? *Wolford*, 609 U.S. at 196. One might raise both factual and legal objections to using them in this way. As a factual matter, the laws did not *expressly* prohibit the mentally ill from possessing firearms. Like the Eighth Circuit, though, we think it self-evident that they *effectively* prohibited this gun possession because the detained

individuals lacked "access to guns" in their secured spaces. *Veasley*, 98 F.4th at 913; *cf. Gore*, 118 F.4th at 815. Take the patients sent to the Pennsylvania hospital that opened in the 1750s—"the first institution where cure, rather than custody and repression, was the underlying principle in the treatment of the insane." Deutsch, *supra*, at 58. These patients often were "chained" to a wall or "restrained in handcuffs" and clothed in a "strait waistcoat, or 'Madd-shirt'" (if at all). *Id.* at 60–62. So it is safe to say that the States deprived this group of individuals of their right to "keep and bear" firearms when the States forcibly detained them. U.S. Const. amend. II. Indeed, some States made this explicit in later years. *See, e.g.*, Duties of Attendants, no. 14, *reprinted in Code of Rules and Regulations for the Government of those Employed in the Care of the Patients of the Pennsylvania Hospital for the Insane* 33 (2d ed., Philadelphia, T. K. & P.G. Collins 1850).

As a legal matter, the Second Amendment did not apply to the States until the Fourteenth Amendment's adoption decades later. *See Barron v. City of Baltimore*, 32 U.S. 243, 250 (1833); *see also McDonald v. City of Chicago*, 561 U.S. 742, 791 (2010). So why should, say, New York's 1788 law reveal anything about the Second Amendment since that amendment did not then cover New York and New York's constitution did not contain any equivalent protection? *See* Eugene Volokh, *State Constitutional Rights to Keep and Bear Arms*, 11 Tex. Rev. L. & Pol. 191, 200 (2006). We see three answers to this question. The first starts with the fact that the Second Amendment incorporated "a *pre-existing* right" to keep and bear arms. *Bruen*, 597 U.S. at 20 (quoting *Heller*, 554 U.S. at 592). So the Supreme Court has relied on pre-founding laws (such as the surety and going-armed laws) to identify this preexisting right's scope. *See Rahimi*, 602 U.S. at 694–98. We see no daylight between the Supreme Court's reliance on those laws and our reliance on the English Vagrancy Act of 1744. As far as we are aware, moreover, no contemporaneous sources asserted that this act (or the colonial laws modeled after it) infringed the right to keep and bear arms in the English Bill of Rights. *See id.* at 694.

Next, many States that passed detention laws also codified the preexisting right to keep and bear arms in their state constitutions. *See Heller*, 554 U.S. at 600–03; Volokh, *supra*, at 193–204. In 1818, for example, Connecticut's constitution made clear that "[e]very citizen has a right to bear arms in defense of himself and the state." Volokh, *supra*, at 194 (quoting Conn.

Const. art. I, § 15). And Ohio's original constitution established "[t]hat the people have a right to bear arms for the defence of themselves and the State[.]" *Id.* at 201 (quoting Ohio Const. of 1802, art. VIII, § 20). In fact, courts have long viewed "the right to keep and bear arms as a general-law right" that is "common to Anglo-American legal systems" across the country. William Baude & Robert Leider, *The General-Law Right to Bear Arms*, 99 Notre Dame L. Rev. 1467, 1472 (2024). Here too, however, we know of no sources that have ever interpreted this general right as restricting the States' longstanding practice of detaining individuals whose mental illness made them a danger. If anything, these laws themselves show that legislators viewed them as consistent with their people's right to keep and bear arms.

Lastly, Congress has long authorized the "civil commitment" of those with mental illness. *United States v. Comstock*, 560 U.S. 126, 137–38 (2010). The Constitution grants it the power "[t]o exercise exclusive legislation" in the District of Columbia. U.S. Const. art. I, § 8, cl. 17. And the original act governing the District incorporated Virginia law on the Virginia side and Maryland law on the Maryland side. *See* Act of Feb. 27, 1801, ch. 15, 2 Stat. 103, 103–05. It thus adopted those States' detention practices. So "lunatics" who were "paupers" might originally have spent time in "jails" in the District. Act of June 15, 1844, ch. 72, 5 Stat. 672, 672. Congress later appropriated funds to confine these individuals or those "committed as lunatics by order of the Circuit or Criminal Courts" at the Baltimore "asylum" or another suitable asylum. *Id.*; *see* Act of Aug. 3, 1841, ch. 5, § 2, 5 Stat. 439, 439. In 1855, it then "established Saint Elizabeth's Hospital" to detain "the insane . . . of the District of Columbia." *Comstock*, 560 U.S. at 138 (quoting Act of Mar. 3, 1855, ch. 199, 10 Stat. 682, 682). Yet Congress also did not ban their detention in a federal "jail" until two years later. Act of Feb. 7, 1857, ch. 36, 11 Stat. 157, 157. All agree that the Second Amendment applies in the District of Columbia. *See Heller*, 554 U.S. at 636. But we again know of no sources arguing that this federal detention violated that amendment.

All told, laws detaining the mentally ill have been "open, widespread, and unchallenged." *Wolford*, 609 U.S. at 196 (quoting *Bruen*, 597 U.S. at 36). They thus count as one of the "old legal rules" that represent the "best evidence" of the Second Amendment's meaning. *Id.*

b. Comparison to § 922(g)(4)

It is not enough to identify a historical "analogue" that was publicly understood to comport with the right to keep and bear arms under the Second Amendment. *Wolford*, 609 U.S. at 196. We next must ask whether the challenged statute is "relevantly similar" to this analogue. *Bruen*, 597 U.S. at 29. And nobody would describe § 922(g)(4) as a "dead ringer" for the traditional detention laws. *Id.* at 30. Those laws required the *detention* of the mentally ill, but § 922(g)(4) bars Laykovich from *possessing firearms* because he has "been adjudicated as a mental defective" by a Missouri court. 18 U.S.C. § 922(g)(4). We thus will consider the "purpose and operation" of these distinct legal regimes by asking the Court's "why" and "how" questions. *Hemani*, 608 U.S. at 780–81. At least as applied to Laykovich, these two questions have similar answers for both the traditional laws and § 922(g)(4). His facial challenge thus fails.

Starting with the "why" question, we must compare the traditional reasons that legislatures ordered the detention of the mentally ill with the modern reasons that Congress barred Laykovich from possessing guns. At the outset, the Court has repeatedly recognized the "hazards" of trying to divine a single subjective "intent" behind laws passed by collective bodies. *Palmer v. Thompson*, 403 U.S. 217, 224–25 (1971); *see Va. Uranium, Inc. v. Warren*, 587 U.S. 761, 775–77 (2019) (plurality opinion); *Fletcher v. Peck*, 10 U.S. 87, 130–31 (1810). We thus suspect the Court has in mind an *objective* effort to identify the "obvious justifications" for a law or historical practice deduced from the text and context of the relevant sources. *Gore*, 118 F.4th at 814–15. This objective inquiry shows that traditional detention laws and § 922(g)(4) exist for an identical reason: protecting the public and the mentally ill from the dangers that their illnesses create.

The traditional detention laws served a "public safety" purpose similar to the purpose of the pretrial-detention laws for criminal defendants. *Id.* at 815. Their text proves this point. The English Vagrancy Act called for the detention of those whose "lunacy" made them "*dangerous* to be permitted to go abroad[.]" 17 Geo. 2, c. 5 § 20 (emphasis added). The colonial laws covered "distracted persons" who might "*damage*" others. Act of May 3, 1676, 1676–1683 Mass. Bay Colony Laws & Orders 48, 48 (emphasis added). And the founding-era laws reached

"distracted" individuals "who [were] *dangerous*" to the public. 1 *Public Statute Laws of Connecticut*, *supra*, tit. 88, ch. 1, § 18, at 386 (emphasis added). Some sources even recognized that this detention would keep them away from guns. In a Massachusetts case rejecting a mentally ill man's habeas challenge to his detention, Chief Justice Shaw explained that the man's daughters had "testif[ied] that if he carried weapons, they should be afraid of him." *Oakes*, 1845 Mass. LEXIS 193, at *16. Shaw added that "there would be the same danger from weapons which might happen to be at hand" if the man were released and had a sudden "outbreak" of insanity. *Id.*

Section 922(g)(4) objectively serves the same purpose by compelling Laykovich to stay away from firearms after a Missouri court "adjudicated" him "as a mental defective[.]" 18 U.S.C. § 922(g)(4). The outer contours of the (outdated) phrase "mental defective" might contain some ambiguity. And neither party tries to define this phrase here. But Laykovich does not dispute that (as a regulation suggests) the statute at least covers "[a] determination by a court . . . that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease" "[i]s a *danger* to himself or to others[.]" 27 C.F.R. § 478.11 (emphasis added). Recall, too, that the Missouri court found that Laykovich's "mental illness" created "a likelihood of serious harm to himself or to others[.]" Judgment, R.20-1, PageID 62. So public safety represents an "obvious" reason for § 922(g)(4)—at least as applied to Laykovich. *Gore*, 118 F.4th at 814.

More generally, the pre-founding right to keep and bear arms implements the "fundamental right of self-defense." *Wolford*, 609 U.S. at 192; *see Bruen*, 597 U.S. at 29. Conversely, there has never been a fundamental "right 'to do mischief to'" others through unprovoked violence. *Tyler*, 837 F.3d at 705 (Batchelder, J., concurring in most of the judgment) (quoting James Wilson, *Lectures on Law* (1804), *reprinted in* James Wilson, *Collected Works of James Wilson* 415, 498, 1055–56 (Kermit L. Hall & Mark David Hall, eds., Liberty Fund 2007)). So exercising the right to self-defense requires people to have the "reason" necessary to distinguish between justified force used to *repel* an attack and unjustified force used to *engage in* one. *Id.* But society has long concluded that those who are dangerously insane cannot draw this distinction. *See id.* As a result, the same logic that limits their "criminal

liability" for misconduct also limits their right to self-defense. *Id.* In short, the traditional detention laws and § 922(g)(4) both "burden a law-abiding citizen's right to armed self-defense" for the same reason: individuals suffering from some severe forms of mental illness lack the mental capacity required to exercise this right. *Bruen*, 597 U.S. at 29; *cf. Ass'n of N.J. Rifle & Pistol Clubs, Inc. v. Att'y Gen. N.J.*, 183 F.4th 211, 254 n.7, 259 (3d Cir. 2026) (en banc) (Matey, J., concurring).

Turning to the "how" question, we must compare the way that the traditional laws achieved this public-safety goal with the way that § 922(g)(4) does so. Here too, the two legal regimes share three common attributes. For starters, the traditional laws typically "provided some form of process before an individual lost any of his liberties" for any extended period. *Hemani*, 608 U.S. at 790. As we have explained, a justice of the peace, a jury, or an executive official had to sanction this detention. *See* 2 Tucker, *supra*, at 305 n.31; Act of Feb. 13, 1815, ch. 48, § 1, 1814 Ohio Laws 161, 161; 1 *Public Statute Laws of Connecticut*, *supra*, tit. 88, ch. 1, §§ 18, 20, at 386–87. Private actors, by contrast, committed a tort if they detained a mentally ill person who was not dangerous or if they detained a dangerous person for longer than necessary to initiate legal process. *See* Buswell, *supra*, § 23, at 33–34.

Section 922(g)(4) provides similar procedural protections. It applies only if a person has been "adjudicated" as meeting the relevant criteria. 18 U.S.C. § 922(g)(4). This verb—which normally means "[t]o settle in the exercise of judicial authority," *Adjudicate*, *Black's Law Dictionary* (4th ed. 1968)—shows that a person subject to § 922(g)(4) must receive "pre-deprivation process" before losing the right to possess guns. *Hemani*, 608 U.S. at 791 n.6. In this case, for example, a court made the required finding after holding a hearing, considering evidence, and ensuring that Laykovich waived his "right to a jury trial." Judgment, R.20-1, PageID 62.

Next, at least as applied to Laykovich, the traditional and modern laws imposed their burdens for a "limited duration," not a permanent one. *Rahimi*, 602 U.S. at 699. The traditional laws required detention only until the mentally ill had recovered enough that they could "be safely released[.]" Act of Feb. 13, 1815, ch. 48, § 4, 1814 Ohio Laws 161, 163. This understanding followed from "the English legal tradition," which recognized that "those who had

recovered their sanity should have their rights restored." *Tyler*, 837 F.3d at 706 (Batchelder, J., concurring in most of the judgment); *see id.* at 710 (Sutton, J., concurring).

Laykovich's ban on possessing firearms contains a similar exception. Congress permits a State to operate a "relief from disabilities program" that allows it to restore an individual's right to possess a firearm even if its courts have "adjudicated" the individual as a mental defective under § 922(g)(4). 34 U.S.C. § 40915(a). Missouri operates such a program. So Laykovich "may file a petition" in its courts to obtain relief from the gun-possession ban by showing both that he "will not be likely to act in a manner dangerous to public safety" and that the relief comports with "the public interest." Mo. Rev. Stat. §§ 571.092.1, .3(1)–(2). Congress also permitted the "Attorney General" to "grant" the same "relief" if Laykovich can make a similar showing. 18 U.S.C. § 925(c). And the Department of Justice just issued a final rule permitting this relief. *See* 91 Fed. Reg. 54,054 (Aug. 20, 2026). Laykovich's ability to seek to restore his right to possess weapons distinguishes him from Tyler—whose ban on gun possession was "effectively permanent" under the then-applicable law. *Tyler*, 837 F.3d at 694 (opinion of Gibbons, J.).

Finally, § 922(g)(4) "imposes a comparable—indeed, 'less-heavy-handed'—burden" on those suffering from a mental illness. *Gore*, 118 F.4th at 815 (quoting *Veasley*, 98 F.4th at 915). The traditional laws required forcible detention—sometimes in chains. *See Veasley*, 98 F.4th at 915. But § 922(g)(4) requires only that they avoid guns. If civil "imprisonment was permissible to respond to" the dangers to the public posed by mental illness, "then the lesser restriction of temporary disarmament that [§ 922(g)(4)] imposes is also permissible." *Rahimi*, 602 U.S. at 699.

One last point. Our post-ratification traditions over the last 150 years show that the States have long viewed dispossession as similar to detention for purposes of the Second Amendment right codified in 1791. At first blush, one might have "reservations" about relying on such traditions. *Rahimi*, 602 U.S. at 738–39 (Barrett, J., concurring). Why, for example, are laws from over a century after an amendment's enactment relevant to the way that the amendment's "contemporaries understood the text"? *Id.* at 739; *see Nat'l Rifle Ass'n v. Bondi*, 133 F.4th 1108, 1156–57 (11th Cir. 2025) (en banc) (Newsom, J., concurring). And what

happens if the post-ratification practices conflict with earlier practices from the time of ratification? *See Nat'l Rifle Ass'n*, 133 F.4th at 1116–17 (majority opinion). Or if the post-ratification practices change after a court has relied on them to interpret an amendment? *See* Sherif Girgis, *Living Traditionalism*, 98 N.Y.U. L. Rev. 1477, 1487, 1520–29 (2023). We need not get into these questions here. At the least, the Supreme Court has said that laws enacted well after an amendment's ratification can play a "secondary" interpretive role by *confirming* that a court has correctly read the ratification-era history. *Bruen*, 597 U.S. at 37; J. Joel Alicea, Bruen *Was Right*, 174 U. Pa. L. Rev. 13, 33–34 (2025); *see also McIntyre*, 514 U.S. at 375–76 (Scalia, J., dissenting); William Baude, *Constitutional Liquidation*, 71 Stan. L. Rev. 1, 59–63 (2019).

Our post-ratification traditions serve this narrow role here. After the Fourteenth Amendment's adoption, States began to bar the transfer of guns to "any person or persons of unsound mind[.]" Act of Feb. 4, 1881, ch. 3285, § 1, 1881 Fla. Laws 87, 87. At least three of these bans date to the nineteenth century. *See id.*; Act of Mar. 5, 1883, ch. 105, § 1, 1883 Kan. Sess. Laws 159, 159–160; Act of Feb. 17, 1899, ch. 1, § 52, 1899 N.C. Pub. Sess. Laws 3, 20, 20–21. The number continued to grow in the first half of the twentieth century. *See, e.g.*, Act of Mar. 30, 1927, ch. 321, § 7, 1927 N.J. Laws 742, 745; Act of June 11, 1931, No. 158, § 8, 1931 Pa. Laws 497, 499; Act of Feb. 21, 1934, ch. 63, § 6, 1935 Ind. Act 159, 161; *see also* Act of July 8, 1932, ch. 465, § 7, 47 Stat. 650, 652. And today, most States limit the ability of those who have been adjudicated mentally incompetent to obtain or possess firearms. *See* Nat'l Conf. of State Legis., *Possession of Firearms by People with Mental Illness*, *available at* https://www.ncsl.org/civil-and-criminal-justice/possession-of-firearms-by-people-with-mental-illness (last visited Sep. 28, 2026). This history confirms that the Second Amendment does not prevent the United States from disarming individuals whose mental illness makes them dangerous—either indirectly (by confining them in secure locations without access to guns) or directly (by outright prohibiting them from possessing these weapons).

In sum, § 922(g)(4) has a similar "purpose and operation" when compared to the historical analogue of civil confinement for the group of individuals whose mental illness rendered them dangerous. *Hemani*, 608 U.S. at 780–81. So it passes *Bruen*'s test—at least as a facial matter.

In response, Laykovich objects to our reliance on the traditional detention laws because, unlike § 922(g)(4), none of them barred firearm possession. His argument reads the Supreme Court's cases as permitting only "a law trapped in amber." *Rahimi*, 602 U.S. at 691. But *Bruen* explained that a government must point only to a "historical *analogue*, not a historical *twin*." 597 U.S. at 30. In *Rahimi*, then, the Court "never identified a historical law specifically disarming those who posed a threat to an intimate partner or child." *Gould*, 163 F.4th at 801. It nevertheless upheld § 922(g)(8)'s facial constitutionality. *Rahimi*, 602 U.S. at 701. Likewise, we may uphold § 922(g)(4)'s facial constitutionality even though laws dispossessing individuals with mental illness date to the late nineteenth century. At least in cases like Laykovich's, these more recent laws address a longstanding problem—the reality that some mental illnesses can make individuals dangerous—in a way that is similar enough to laws that have always peacefully coexisted with the right to keep and bear arms.

Next, Laykovich raises a level-of-generality concern. If we use the various historical analogues to adopt a generic principle—that the government can disarm *anyone* it deems dangerous—he argues that we will "water[] down" the Second Amendment. Reply Br. 4 (quoting *Rahimi*, 602 U.S. at 740 (Barrett, J., concurring)). It is a fair concern. But this case does not implicate the concern. We need not rely on such a high level of generality. Rather, we rely on a specific "legal rule[]" that is both "old" and "well-accepted": the government may legally detain (and so effectively disarm) those who have been adjudicated a present risk to public safety due to their mental illness. *Wolford*, 609 U.S. at 196. And Laykovich does not dispute that he falls within this group—as shown by the Missouri court's decision ordering his detention. So this narrow rule suffices to reject his facial challenge.

B. Sentencing Challenges

Laykovich also seeks to overturn his 48-month sentence. He argues that the district court's guidelines miscalculation rendered his sentence procedurally unreasonable. And he argues that the court's refusal to grant a downward variance rendered his sentence substantively unreasonable.

1. Procedural Challenge

Laykovich first asserts that the district court imposed a procedurally unreasonable sentence by miscalculating his guidelines range. *See United States v. Riccardi*, 989 F.3d 476, 481 (6th Cir. 2021). He claims that the court should not have imposed the two-level enhancement for inducing his girlfriend (Halbrooks) to buy him guns. U.S.S.G. § 2K2.1(b)(5)(B)(iii) (2024). (This enhancement has since moved to § 2K2.1(b)(6)(B)(iii).) He is mistaken.

Section 2K2.1 provides the offense-level framework for defendants who unlawfully possess firearms. In 2024, § 2K2.1(b)(5)(B)'s first clause instructed district courts to increase a defendant's base offense level by two if the defendant "purchased . . . a firearm . . . knowing or having reason to believe that such conduct would result in the receipt of the firearm . . . by an individual who" could not lawfully possess it. *Id.* § 2K2.1(b)(5)(B)(i). Its third clause then instructed those courts that this two-level enhancement also applied to a defendant who "received a firearm or any ammunition as a result of inducing the conduct described in clause (i)[.]" *Id.* § 2K2.1(b)(5)(B)(iii). That is, courts should impose this two-level enhancement to defendants who "induc[e]" a straw purchaser to buy them a gun because they cannot lawfully possess it. *Id.*

The parties debate a narrow issue over how this enhancement applies here. They do not dispute the meaning of the key word: inducing. Defendants induce a straw purchaser to buy them a gun if they "lead on, move, influence, [or] prevail upon" the purchaser to take that action. *Oxford English Dictionary Online* (3d ed.) (last updated June 2026); *see also Inducement*, *Black's Law Dictionary* 894 (10th ed. 2014). Rather, the parties disagree over whether the district court rightly concluded that Laykovich induced Halbrooks to buy a gun (or guns) for him.

What is the standard of review for the district court's conclusion? The correct answer depends on how we characterize that conclusion. The district court may have answered a *pure question of historical fact* about what happened between Laykovich and Halbrooks independent of the legal provision at issue. If so, we would review the district court's finding of historical

fact under the deferential clear-error standard. *See United States v. Florence*, 150 F.4th 773, 780 (6th Cir. 2025). Or the district court may have instead answered a *mixed question of law and fact* about whether a given set of historical facts rises to the level required to qualify as "inducing" under the relevant legal provision (§ 2K2.1(b)(5)(B)(iii)). *See, e.g.*, *United States v. O'Lear*, 90 F.4th 519, 536 (6th Cir. 2024); *United States v. Thomas*, 933 F.3d 605, 608 (6th Cir. 2019). We take a case-by-case approach to our standard of review for these mixed questions—depending on whether they appear more factual or legal. *See Florence*, 150 F.4th at 780–82.

In our view, the parties dispute (and the district court resolved) the first type of question. They do not disagree over whether a given set of historical facts would qualify as "inducing." They instead disagree over whether enough evidence existed to find that Laykovich persuaded Halbrooks to make "a straw purchase" for him. Sent. Tr., R.68, PageID 394. If Laykovich engaged in this persuasion, all agree on the answer to the mixed question: he would have "induc[ed]" her to buy the guns and triggered § 2K2.1(b)(5)(B)(iii). We thus must ask whether the district court's finding that Laykovich persuaded Halbrooks to make straw purchases represents a "plausible" reading of the record. *O'Lear*, 90 F.4th at 536 (citation omitted).

It does. The circumstantial evidence shows that the district court plausibly found that Laykovich convinced Halbrooks to buy guns for him. From April 2020 through January 2023, Laykovich himself bought several of the firearms found in his possession. In the same time frame, Halbrooks bought none of these weapons. In January 2023, though, a Missouri court involuntarily committed Laykovich and rendered him ineligible to possess firearms. The next month, Laykovich tried to buy another firearm, but the gun supplier refused to sell to him. Over the remainder of 2023 and into early 2024, Halbrooks then bought eight of the firearms found in Laykovich's possession. This circumstantial chain of purchases has at least as much persuasive power as the classic jury instruction on circumstantial evidence. Just as a jury could find that it was raining if "someone walked into the courtroom wearing a raincoat covered with drops of water and carrying a wet umbrella," the district court could find that Laykovich persuaded Halbrooks to buy him guns based on the abrupt changes in their purchasing histories after his commitment. Sixth Circuit Pattern Criminal Jury Instruction 1.06(3) (May 29, 2026).

Laykovich responds that Halbrooks told FBI agents that he had not "directed" her to buy any of the guns found in his possession. Interview Notes, R.43-2, PageID 185. But we must defer to the district court's credibility findings. *See United States v. Moses*, 289 F.3d 847, 851 (6th Cir. 2002). And the court plausibly found that Halbrooks was not credible. Among other reasons, Halbrooks claimed that she never saw Laykovich use illegal drugs, but "[m]ultiple people" told the FBI that he "was an illegal substance user." Sent. Tr., R.68, PageID 379. Similarly, Halbrooks "claimed to have purchased" four firearms, Interview Notes, R.43-2, PageID 185, even though objective records proved she had bought eight in 2023 and 2024. And Halbrooks said that she had not bought a firearm for "three to four months" when she spoke to the FBI, but those records showed that she had bought a gun a couple weeks before this interview. Sent. Tr., R.68, PageID 382. Lastly, Halbrooks had a motive to lie because, as the district court noted, she was Laykovich's "romantic partner and the mother of his child." *Id.*, PageID 391.

Laykovich next claims that the district court could not rely on circumstantial evidence *alone* to find that he induced Halbrooks to purchase guns for him. But we have long held that a jury may rely on circumstantial evidence by itself to convict a defendant of a crime beyond a reasonable doubt. *See United States v. Maya*, 966 F.3d 493, 500 (6th Cir. 2020); *United States v. Spearman*, 186 F.3d 743, 746 (6th Cir. 1999); *United States v. Conti*, 339 F.2d 10, 12 (6th Cir. 1964). All the more so, a district court may rely on this evidence to impose a sentencing enhancement because it must meet a lower preponderance-of-evidence standard. *See United States v. Pawlak*, 822 F.3d 902, 912 (6th Cir. 2016), *abrogated on other grounds by Beckles v. United States*, 580 U.S. 256 (2017). And, as the district court correctly explained, the government introduced "overwhelming circumstantial evidence" here. Sent Tr., R.68, PageID 394.

2. Substantive Challenge

This conclusion leaves Laykovich's substantive claim that his 48-month sentence is "too long" under a proper balancing of the sentencing factors in 18 U.S.C. § 3553(a). *United States v. Hinojosa*, 138 F.4th 1004, 1009 (6th Cir. 2025) (quoting *United States v. Parrish*, 915 F.3d 1043, 1047 (6th Cir. 2019)). But this claim faces an uphill battle because we defer to the district

court's sentencing choice by reviewing it for abuse of discretion. *See United States v. Holt*, 116 F.4th 599, 616 (6th Cir. 2024). And the climb gets even steeper where, as here, the court's sentence stayed within the guidelines range. We presume such a sentence's reasonableness. *See id.*

Laykovich has not overcome this presumption. On the contrary, the district court thoughtfully balanced the competing factors in play. As for the aggravating factors, the court found Laykovich's criminal conduct "shocking" because the number and type of illegally possessed weapons posed a stark "danger" to those Laykovich might have confronted. Sent. Tr., R.68, PageID 404; *see* 18 U.S.C. § 3553(a)(1). The court thus felt that the offense required a within-guideline sentence to "promote respect for the law," recognize "the seriousness of th[e] offense," and "serve as a deterrent not only to" Laykovich but also "to others" who might contemplate similar crimes. Sent. Tr., R.68, PageID 404; *see* 18 U.S.C. § 3553(a)(2)(A)–(C). As for the mitigating factors, the court acknowledged Laykovich's "many positive attributes" (including "his military service"). Sent. Tr., R.68, PageID 404; *see* 18 U.S.C. § 3553(a)(1). And while it normally would have chosen a sentence at the "very top" of the guidelines range because of the dangers that Laykovich posed, it chose a sentence at "the lower end" because the probation office could ensure that he remained "in a good state of mind" to succeed outside prison. Sent. Tr., R.68, PageID 405–06. None of this analysis looks unreasonable.

Laykovich responds that the court wrongly minimized his mitigating factors (his military service, mental illness, and childhood abuse) in favor of one aggravating factor (the potential for a mass-casualty event). Yet we are hard pressed to see how the court could overemphasize the importance of choosing a sentence that would deter a tragic crime spree that might have resulted in multiple deaths. And the court accounted for Laykovich's mitigating evidence because it used this evidence to choose a sentence near the bottom of his guidelines range. At day's end, Laykovich wrongly asks us to "rebalance the § 3553(a) factors"—a request that falls outside our deferential standard of review. *Holt*, 116 F.4th at 617 (citation omitted).

We affirm.