

United States Court of Appeals for the Fifth Circuit

No. 24-60348

United States Court of Appeals
Fifth Circuit

FILED

August 28, 2026

Lyle W. Cayce
Clerk

SEALED APPELLEE,

Plaintiff—Appellee,

versus

SEALED JUVENILE,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 1:24-CR-33-1

Before KING, SMITH, and RAMIREZ, *Circuit Judges*.

JERRY E. SMITH, *Circuit Judge*:

Juvenile was charged with two counts of possession or transfer of a machinegun, in violation of 18 U.S.C. §§ 922(o) and 924(a)(2), for his possession of Glock switches, which are machinegun-conversion devices. The government submitted a certification to proceed in federal court against a juvenile under 18 U.S.C. § 5032. That certification included a representation that “the State of Mississippi does not have jurisdiction over Defendant with respect to said alleged acts of juvenile delinquency” in that “Mississippi does not have a law that regulates the possession or transfer of machineguns.”

After the court denied Juvenile’s motion to dismiss on jurisdictional and Second Amendment grounds, Juvenile admitted to the charges, waiving his right to appeal any non-jurisdictional argument besides his Second Amendment challenge. Juvenile appeals, asserting that (1) the district court lacked jurisdiction, (2) the charges violate the Second Amendment, and (3) ATF exceeded its authority in determining that a Glock switch is a “machinegun” under 26 U.S.C. § 5845(b).

Because Mississippi did not have jurisdiction over the alleged conduct, the district court had jurisdiction. Juvenile’s Second Amendment challenge fails because it is foreclosed by *United States v. Wilson*, 164 F.4th 380 (5th Cir. 2026), *petition for cert. filed* (July 29, 2026) (No. 26-5198). His statutory challenge fails because he waived his right to appeal it. Therefore, we AFFIRM the conviction.

I

In April 2024, Juvenile was charged in an information with two counts of possession or transfer of a machinegun, in violation of 18 U.S.C. §§ 922(o) and 924(a)(2), as would have been authorized had he been an adult, per 18 U.S.C. § 5031. Specifically, the information alleged that Juvenile transferred and possessed “machine gun conversion devices (‘Glock switches’).”

As required by 18 U.S.C. § 5032, the government submitted a certification to proceed in federal court against Juvenile. The certification included (1) the age qualification of Juvenile, (2) the federal criminal law violation charged, (3) an affirmation that “[t]here is a substantial Federal interest in this case and the offense to warrant the exercise of federal jurisdiction due to the danger that Glock Switches pose to the community[,]” and (4) a representation that “the State of Mississippi does not have jurisdiction over Defendant with respect to said alleged acts of juvenile delinquency” in that “Mississippi does not have a law that regulates the possession or transfer of

machineguns.”

Juvenile filed two motions to dismiss, first asserting the § 5032 certification was inadequate to confer jurisdiction upon the district court, and then positing that § 922(o) violates the Second Amendment both facially and as applied to him. The district court denied both motions.

Juvenile subsequently admitted to the charges brought in the information, and the district court adjudicated him delinquent. Juvenile generally waived his right to appeal any non-jurisdictional issue but reserved his right to appeal the denial of his motion to dismiss on Second Amendment grounds. The district court sentenced Juvenile to a 19-month term of detention followed by supervised release until he reached 21 years old.

II

A certification to proceed in federal court against a juvenile under 18 U.S.C. § 5032 is a jurisdictional requirement subject to *de novo* review. *United States v. Sealed Juvenile 1*, 225 F.3d 507, 508 (5th Cir. 2000) (citing *United States v. Male Juvenile*, 148 F.3d 468, 469 (5th Cir. 1998)). “We review preserved challenges to the constitutionality of a criminal statute *de novo*.” *United States v. Howard*, 766 F.3d 414, 419 (5th Cir. 2014). “This court reviews *de novo* whether an appeal waiver bars an appeal.” *United States v. Keele*, 755 F.3d 752, 754 (5th Cir. 2014).

III

Juvenile raises three issues on appeal:

(1) Did the district court err by denying Sealed Juvenile’s motion to dismiss for lack of jurisdiction where the State of Mississippi had jurisdiction over his alleged conduct? (2) Did the district court err by denying Sealed Juvenile’s motion to dismiss the information as unconstitutional, both facially and as applied, under the Second Amendment? (3) Did the Bureau

of Alcohol, Tobacco and Firearms (ATF) exceed its authority in determining that a ‘Glock switch’ is a ‘machinegun’ under 26 U.S.C. § 5845(b)?

Each of these questions must be answered in the negative, and each will be addressed in turn below.

A

Juvenile asserts that the district court lacked jurisdiction because the government’s certification did not meet § 5032’s requirements. Under § 5032, United States courts do not have jurisdiction over juveniles alleged to have committed acts of juvenile delinquency unless the Attorney General makes a required certification to the court. *Sealed Juvenile 1*, 225 F.3d at 508. To satisfy § 5032, the government must attest to the presence of at least one of three enumerated factors. On appeal, the government relies on only the first: “[T]he juvenile court or other appropriate court of a State does not have jurisdiction or refuses to assume jurisdiction over said juvenile with respect to such alleged act of juvenile delinquency[.]” 18 U.S.C. § 5032.

The “alleged act of juvenile delinquency” is transfer and possession of a Glock switch, a “machine gun conversion device,” in violation of §§ 922(o) and 924(a)(2), as made applicable to juvenile conduct through 18 U.S.C. § 5031. Juvenile points to two Mississippi laws as evidence that the state has jurisdiction over the charged conduct.

First, Juvenile calls our attention to Miss. Code § 97-37-14, which declares it “an act of delinquency for any person who has not attained the age of eighteen (18) years knowingly to have any handgun in such person’s possession.” § 97-37-14(1). That section defines “handgun” as a “pistol, revolver or other firearm of any description, loaded or unloaded, from which any shot, bullet or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable or magazine breech, is less than sixteen (16) inches.” § 97-37-14(4).

Section 97-37-14 does not regulate Glock switches. “A Glock switch is a small metal device that converts a Glock semiautomatic pistol to an automatic pistol by disabling the trigger bar.” *United States v. Bridges*, 150 F.4th 517, 544 (6th Cir. 2025) (NALBANDIAN, J., concurring). It cannot fire any “shot, bullet, or other missile[.]” § 97-37-14(4). Mississippi recognized that § 97-37-14 did not regulate Glock switches when it enacted § 97-37-39. That law criminalizes manufacturing, possessing, or using “a machine gun conversion device.” § 97-37-39 (eff. July 1, 2024). But § 97-37-39 did not go into effect until July 1, 2024, after the alleged conduct in this case. *See id.*

Second, Juvenile contends that Mississippi’s ban on concealment of a “machine gun or any fully automatic firearm or deadly weapon” proscribes the possession of Glock switches. *See* § 97-37-1. But § 97-37-1 requires concealment, which neither was charged in this case nor is an element of either § 922(o) or § 924(a)(2). Thus, § 97-37-1 does not give Mississippi jurisdiction over the alleged conduct. And because Mississippi does not have jurisdiction, the government submitted the requisite certification for the district court to exercise jurisdiction over Juvenile.

B

Juvenile contends that § 922(o) violates the Second Amendment both facially and as applied to him. In adjudicating Second Amendment claims, courts must employ the two-step analysis in *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 24 (2022). *Bruen* first asks whether “the Second Amendment’s plain text covers an individual’s conduct.” *Id.* “When the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct” and courts proceed to Step 2. *Id.*

Bruen’s second step assesses “whether the challenged regulation is consistent with the principles that underpin our regulatory tradition.” *United States v. Connelly*, 117 F.4th 269, 274 (5th Cir. 2024) (quoting *United*

States v. Rahimi, 602 U.S. 680, 692 (2024)). “It is the government’s burden to demonstrate that the challenged regulation is ‘relevantly similar’ to laws our tradition is understood to permit,” and the government meets that burden “by finding and explicating ‘historical precursors’ supporting the challenged law’s constitutionality.” *Id.* (quoting *Bruen*, 597 U.S. at 29).

1

The district court held that Glock switches are not “Arms” within the meaning of the Second Amendment’s plain text. In the Second Amendment sense, “Arms” comprise “weapons of offence,” “armour of defence,” and “any thing that a man wears for his defence, or takes into his hands, or useth in wrath to cast at or strike another.” *District of Columbia v. Heller*, 554 U.S. 570, 581 (2008) (citations omitted). “To ‘bear arms,’ in sum, means to ‘wear, bear, or carry . . . for the purpose . . . of being armed and ready for offensive or defensive action in case of conflict with another person.” *United States v. Comeaux*, 179 F.4th 297, 301 (5th Cir. 2026) (quoting *Heller*, 554 U.S. at 584).

In *Comeaux*, we held that silencers are Second Amendment “Arms.” *Id.* *Comeaux* rejected the government’s contentions that Second Amendment “Arms” must be necessary to firearm use or tied to traditional militia service. *Id.* at 302. Instead, firearms need only “*facilitate* armed self-defense.” *Id.* (quoting *Bruen*, 597 U.S. at 28 (emphasis added)). Because “silencers are used in self-defense ‘to cast at or strike another,’” they are “Arms.” *Id.* at 301 (quoting *Heller*, 554 U.S. at 581).

Glock switches are analytically similar to silencers because they make a firearm significantly more effective by allowing faster follow-up shots. That is a “critical function” that makes firearms “more effective for their core lawful purpose of self-defense.” *Id.* This means that Glock switches are undeniably Second Amendment “Arms.” Indeed, counsel for the govern-

ment conceded as much at oral argument. Thus, the district court erred in holding otherwise.

2

Though Glock switches are Second Amendment “Arms,” we have held that dangerous and unusual weapons are not protected under Step 1 of *Bruen*. In *Hollis v. Lynch*, 827 F.3d 436 (5th Cir. 2016), *abrogated by United States v. Diaz*, 116 F.4th 458 (5th Cir. 2024), *cert. denied*, 145 S. Ct. 2822 (2025), we upheld § 922(o) because machineguns are “dangerous and unusual” and therefore “do not receive Second Amendment protection[.]”

We reevaluated that holding post-*Bruen* in *Wilson*, which states that “*Bruen* confirmed [*Hollis*’s] major premise—that prohibitions on dangerous and unusual weapons are consistent with our historical tradition of firearm regulation” and “did not displace *Hollis*’s minor premise—that § 922(o) is consistent with that historical tradition.” 164 F.4th at 386. *Wilson* upheld a § 922(o) conviction at Step 1 of *Bruen*, holding that the dangerous-and-unusual analysis from *Hollis* occurs at *Bruen* Step 1. *Id.* at 387.

Under our rule of orderliness, we are bound by *Wilson*’s interpretation of *Bruen* as related to *Hollis*. See *United States v. Mitchell*, 160 F.4th 169, 187 (5th Cir. 2025), *cert. denied*, 2026 WL 1855110 (June 29, 2026) (mem.). Because *Wilson* affirmed *Hollis*’s holding that § 922(o) is consistent with the Second Amendment, Juvenile’s Second Amendment challenge fails at Step 1 of *Bruen*.

C

Juvenile contends that ATF exceeded its authority in determining that a Glock switch is a “machinegun” under 26 U.S.C. § 5845(b), an argument he did not make in the district court. The government asserts that Juvenile waived his right to appeal this issue. “To determine whether an appeal of a

sentence is barred by an appeal waiver provision in a plea agreement, we conduct a two-step inquiry: (1) whether the waiver was knowing and voluntary and (2) whether the waiver applies to the circumstances at hand, based on the plain language of the agreement.” *United States v. Bond*, 414 F.3d 542, 544 (5th Cir. 2005) (citing *United States v. McKinney*, 406 F.3d 744, 746–47 (5th Cir. 2005)).

First, the district court found that Juvenile understood his rights and voluntarily and knowingly waived some of them in the appeal waiver. Juvenile does not make any argument to the contrary. Second, the plain language of the waiver applies to the circumstances at hand. Juvenile waived “his right to appeal any non-jurisdictional issues with the exception that the defendant retain[ed] the right to pursue a direct appeal of the District Court’s order pertaining to the defendant’s motion to dismiss pursuant to [*Bruen.*]” This challenge to his conviction on statutory-authorization grounds is neither jurisdictional nor related to his Second Amendment challenge in the district court. Juvenile waived his right to appeal this issue.¹

* * * * *

Because the government submitted the requisite certification under § 5032, the district court had jurisdiction. Juvenile’s Second Amendment challenge is foreclosed by *Wilson*, and his statutory challenge was waived.

The judgment is AFFIRMED.

¹ Even if Juvenile did not waive his right to appeal this issue, this court may review his statutory challenge only for plain error, as the issue was not raised in the district court. See *Puckett v. United States*, 556 U.S. 129, 135 (2009). As Juvenile does not cite any relevant legal authority supporting his argument that the ATF lacked authority to define machinegun-conversion devices as machineguns (a definition included in the statute itself), he cannot succeed under plain error review.

KING, *Circuit Judge*, concurring:

The majority examines Juvenile’s claim through the two-step analysis from *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 24 (2022). However, Juvenile’s challenge is a facial challenge, not an as-applied challenge.¹ Accordingly, I would proceed directly to our precedent under *United States v. Wilson*, 164 F.4th 380, 383 (5th Cir. 2026) (*Wilson I*), which explained that *Hollis v. Lynch*, 827 F.3d 436 (5th Cir. 2016) “rejected a constitutional challenge to § 922(o) and held that machineguns ‘do not receive second amendment protection,’” and nothing in *Bruen* “‘unequivocally’ overrule[d] [*Hollis*’s] core holding.” See *Wilson I*, 164 F.4th at 383, 386 (first quoting *Hollis*, 827 F.3d at 451; and then quoting *Martin v. Medtronic, Inc.*, 254 F.3d 573, 577 (5th Cir. 2001)). Accordingly, the majority’s analysis is misapplied to this case.

Alternatively, even absent precedent, Juvenile’s facial challenge would still fail. To succeed on a facial constitutional challenge, a defendant must “establish that no set of circumstances exists under which the Act would be valid.” *United States v. Rahimi*, 144 S. Ct. 1889, 1898 (2024) (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987)). “The Second Amendment protects bearable arms—those you carry[.]” *United States v. Bridges*, 150 F.4th 517, 530 (6th Cir. 2025) (NALBANDIAN, J., concurring in part and concurring in the judgment). But “[t]he statutory definition of ‘machinegun’ sweeps in . . . weapons such as the ‘massive guns mounted on

¹ Juvenile argues that § 922(o) is unconstitutional as applied to him because “the switch or auto-sear is an integral component of what makes the Glock to which it is attached a machinegun,” and “machineguns, as bearable arms, should be afforded Second Amendment protection.” That is, his argument depends on machineguns writ large being afforded Second Amendment protection. But in the face of a statute that explicitly bans machineguns, his purported as-applied challenge is in effect a facial one. See *United States v. Wilson*, 174 F.4th 474, 476 (5th Cir. 2026) (*Wilson II*).

military aircraft and anti-aircraft batteries.’” *Wilson II*, 174 F.4th at 476 (quoting *Bridges*, 150 F.4th at 530 (NALBANDIAN, J., concurring in part and concurring in the judgment). Because these massive guns “are not bearable weapons, the regulation of at least those weapons is consistent with the Second Amendment.” *United States v. Charles*, 159 F.4th 545, 548 (5th Cir. 2025). So, there is a set of circumstances under which § 922(o) is valid, and Juvenile’s facial challenge has no merit.