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Right Diagnosis, Wrong Cure: Reconceptualizing the Commerce Clause Basis for the Federal Prohibition on Felon Firearm Possession

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Introduction

Jonathan Adler recently posted the provocative piece: "Is the Federal Prohibition on Felon Firearm Possession Constitutional?"[1] Although Second Amendment challenges are all the rage, Adler instead asks about Congress's commerce power. This Essay takes up Adler's challenge to reconceptualize the rationale for the statutory provision that is commonly known as the "felon-in-possession" ban. In so doing, the essay shows that the answer to Adler's question is "yes."

In its 1977 decision in *Scarborough v. United States*,[2] the Supreme Court interpreted the felon-in-possession ban to prohibit a convicted felon from possessing any firearm that previously crossed state lines.[3] Because nearly all firearms have crossed state lines, the statute operates like a complete ban on firearm possession by felons.[4] As Adler explains, several Fifth Circuit judges recently argued that the statute, as construed in

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1. Jonathan Adler, *Is the Federal Prohibition on Felon Firearm Possession Constitutional?* REASON: VOLOKH CONSPIRACY (Nov. 16, 2025), https://reason.com/volokh/2025/11/16/is-the-federal-prohibition-on-felon-firearm-possession-constitutional/ [https://perma.cc/TT4V-KZFR].
2. 431 U.S. 563 (1977).
3. *See id.* at 575, 578.
4. *See* Adler, *supra* note 1.

Scarborough, cannot survive the Supreme Court's 1995 decision in *United States v. Lopez*,[5] which held that a ban on possessing a gun in a school zone exceeded Congress's commerce power.[6] Judge Willett, joined by Judge Duncan, noted that the felon-in-possession ban's jurisdictional element does not require proof of a substantial impact on interstate commerce in a particular case, and further argued that *Lopez* does not allow a court to uphold the ban based on the aggregated impact that "firearm-related crime" by felons has "on the national economy."[7] Their concurring opinion echoes an opinion in which Judge Ho, joined by Judges Smith and Engelhardt, urged that the Fifth Circuit is free to declare the felon-in-possession ban unconstitutional because the "holding in *Scarborough* was statutory, not constitutional," and "*Scarborough* pre-dates *Lopez*, where the Court cabined the constitutional power of the federal government under the Commerce Clause."[8] In other words, their proposed solution to the problem that they identified is to invalidate this important act of Congress.

This Essay offers a different path forward, which Adler anticipates but does not develop: "reconsidering the basis upon which" the felon-in-possession ban "could be considered constitutional."[9] Judge Willett and his like-minded colleagues analyzed the felon-in-possession ban in isolation, and they assumed that the ban's only conceivable rationale is the aggregated impact that firearm-related crime by felons has on the national economy—a rationale that would indeed be problematic under *Lopez*.

5. 514 U.S. 549 (1995).

6. *Id.* at 551; Adler, *supra* note 1.

7. United States v. Bonner, 159 F.4th 338, 341–42 (5th Cir. 2025) (Willett, J., concurring). This opinion was a concurrence because Judge Willett's position was foreclosed by circuit precedent. *See id.* at 340.

8. United States v. Seekins, 52 F.4th 988, 991 (5th Cir. 2022) (Ho, J., dissenting from denial of rehearing en banc).

9. *See* Adler, *supra* note 1.

This Essay shows that ban instead should be understood as a means to make Congress's broader regulation of the interstate firearms market more effective. Thus understood, the ban is constitutional under Supreme Court precedent that post-dates *Lopez*. And unlike the rationale that the objecting Fifth Circuit judges have ascribed to the ban, this rationale raises no specter that "the federal government can regulate virtually every tangible item anywhere in the United States."[10] In short, the infirmity lies in the way the objecting Fifth Circuit judges have conceptualized the felon-in-possession ban's rationale—not in the ban itself, as interpreted in *Scarborough*. Right diagnosis, wrong cure.

This Essay has three parts. Part I describes the Supreme Court's modern commerce power doctrine. Part II reconceptualizes the rationale for the felon-in-possession ban and shows that the ban, properly understood, is within Congress's commerce power. Part III explores the implications for other statutory provisions, including the analogous federal bans on the possession of firearms by other categories of individuals (such as persons addicted to unlawful drugs) and the distinctive federal ban on the possession of body armor by felons.

I. The Supreme Court's Modern Commerce Power Doctrine

The most relevant modern Supreme Court cases are its 1995 decision in *Lopez*, its 2000 decision in *United States v. Morrison*,[11] and its 2005 decision in *Gonzales v. Raich*.[12]

The statute at issue in *Lopez* was the Gun-Free School Zones Act, which made it a federal crime to possess a gun in the vicinity of a school.[13] As relevant here, the government had defended that

10. *Seekins*, 52 F.4th at 990 (Ho, J., dissenting from denial of rehearing en banc).

11. 529 U.S. 598 (2000).

12. 545 U.S. 1 (2005).

13. *See* United States v. Lopez, 514 U.S. 549, 551 (1995).

statute on the theory that "possession of a firearm in a school zone may result in violent crime and that violent crime can be expected to affect the functioning of the national economy."[14] In declining to uphold the Gun-Free School Zones Act on this basis, the Supreme Court reasoned that the government's "costs of crime" reasoning would allow Congress to regulate "not only all violent crime, but all activities that might lead to violent crime, regardless of how tenuously they relate to interstate commerce."[15] The Court was "hard pressed to posit any activity by an individual that Congress is without power to regulate" if it were to adopt the government's theory.[16]

In *Morrison*, the Supreme Court applied the reasoning of *Lopez* to hold that a federal civil remedy for victims of gender-motivated crimes of violence exceeded Congress's commerce power.[17] The Court reasoned that, like the statute in *Lopez*, this provision did not regulate economic activity, and the Court emphasized that "the noneconomic, criminal nature of the conduct at issue was central to" its decision in *Lopez*.[18] The Court specifically rejected the argument that "Congress may regulate noneconomic, violent criminal conduct based solely on that conduct's aggregate effect on interstate commerce."[19]

By contrast, in *Raich*, the Supreme Court rejected a commerce power challenge to a provision of a federal statute that made the simple possession of marijuana a crime.[20] For purposes of this Essay, the key takeaway from *Raich* is that Congress can ban the simple possession of a commodity as a means to make its broader regulation of the interstate market in that commodity

14. *Id.* at 563.

15. *Id.* at 564.

16. *Id.*

17. *See* United States v. Morrison, 529 U.S. 598, 601–602 (2000).

18. *Id.* at 610.

19. *Id.* at 617.

20. *See* Gonzales v. Raich, 545 U.S. 1, 9 (2005).

more effective.[21] In addition, the Court rejected the argument that it is unconstitutional to apply the marijuana ban in federal law to marijuana that is grown at home for a person's own medical use, as permitted by state law.[22]

In rejecting the commerce power challenge, *Raich* emphasized that the ban on marijuana possession is not a standalone statute but part of the Controlled Substances Act (CSA), which regulates the interstate markets in controlled substances.[23] The Court explained that the CSA's main objectives "were to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances," and that "Congress was particularly concerned with the need to prevent the diversion of drugs from legitimate to illicit channels."[24] "To effectuate these goals, Congress devised a closed regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA."[25] The CSA classifies controlled substances into five categories and establishes a distinct set of controls for each based on the drug's psychological and physical effects, approved medical uses, and potential for abuse.[26]

The Supreme Court in *Raich* distinguished the decision in *Lopez*, which involved "a brief, single-subject statute making it a crime for an individual to possess a gun in a school zone."[27] The Court likewise distinguished *Morrison* because the statute in that case, like the statute in *Lopez*, "did not regulate economic

21. *See id.* at. 26 ("Prohibiting the intrastate possession or manufacture of an article of commerce is a rational (and commonly utilized) means of regulating commerce in that product.").

22. *See id.* at 32–33.

23. *See id.* at 24.

24. *Id.* at 12–13.

25. *Id.* at 13 (citing 21 U.S.C. §§ 841(a)(1), 844(a) (2000)).

26. *Id.* at 13–14.

27. *Id.* at 23.

activity."[28] By contrast, the Court explained, "the activities regulated by the CSA are quintessentially economic."[29] The Cout reasoned that the CSA "regulates the production, distribution, and consumption of commodities for which there is an established, and lucrative, interstate market."[30] And as particularly relevant here, the Court emphasized that "prohibiting the intrastate possession . . . of an article of commerce is a rational (and commonly utilized) means of regulating commerce in that product."[31] The Court characterized a possession ban as the regulation of "economic activity" when the ban is deployed in this manner.[32] The Court further explained that *Lopez* itself had distinguished earlier cases "holding that comprehensive regulatory statutes may be validly applied to local conduct that does not, when viewed in isolation, have a significant impact on interstate commerce."[33]

Concurring in *Raich*, Justice Scalia reasoned that "where Congress has the authority to enact a regulation of interstate commerce, 'it possesses every power needed to make that regulation effective.'"[34] He explained that this power derives from the Necessary and Proper Clause operating in conjunction with the Commerce Clause.[35]

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28. *Id.* at 25.
29. *Id.*
30. *Id.* at 26.
31. *Id.*
32. *Id.*
33. *Id.* at 23; *see also* Taylor v. United States, 579 U.S. 301, 307 (2016) (citing *Raich* to support the principle that "the market for marijuana, including its intrastate aspects, is 'commerce over which the United States has jurisdiction.'" (quoting 18 U.S.C. § 1951(b)(3))).
34. *Raich*, 545 U.S. at 36 (Scalia, J., concurring) (quoting United States v. Wrightwood Dairy Co., 315 U.S. 110, 118–19 (1942)).
35. *See id.* at 34–35 (Scalia, J., concurring); *see also id.* at 5 (majority opinion) (quoting the Necessary and Proper Clause and the Commerce Clause).

II. The Felon-in-Possession Ban's Rationale, Reconceived

Judge Willett and his like-minded colleagues noted that the felon-in-possession ban's jurisdictional element does not require proof of a substantial impact on interstate commerce in a particular case, and they argued that the ban cannot be upheld based on the rationale that "firearm-related crime" by felons, taken in the aggregate, "has a substantial impact on the national economy."[36] These judges are correct that this rationale would be problematic under the Supreme Court's precedent, which rejected the proposition that "Congress may regulate noneconomic, violent criminal conduct based solely on that conduct's aggregate effect on interstate commerce."[37] Where these judges went astray was by analyzing the felon-in-possession ban in isolation, rather than as an important component of Congress's broader regulation of the interstate firearms market. Just as the CSA's regulatory scheme "is designed to foster the beneficial use of" controlled substances and "to prevent their misuse,"[38] federal firearms legislation is designed to foster the beneficial uses of firearms while preventing their misuse. And as explained below, the felon-in-possession ban (along with its predecessors) is a key part of Congress's longstanding strategy to promote the interstate firearms market for lawful purposes while preventing the diversion of firearms to criminals and other categories of

36. United States v. Bonner, 159 F.4th 338, 341–42 (5th Cir. 2025) (Willett, J., concurring); *see also* United States v. Seekins, 52 F.4th 988, 991 (5th Cir. 2022) (Ho, J., dissenting from denial of rehearing en banc) ("The mere fact that a felon possesses a firearm which was transported in interstate commerce years before the current possession cannot rationally be determined to have a substantial impact on interstate commerce as of the time of current possession." (quoting United States v. Kuban, 94 F.3d 971, 977–78 (5th Cir. 1996))).

37. United States v. Morrison, 529 U.S. 598, 617 (2000).

38. *Raich*, 545 U.S. at 24.

individuals who, in Congress's judgment, are especially likely to use them unlawfully.

Ever since Congress enacted the first major firearms regulation in 1938, Congress has sought to interfere "as little as possible" with the access of "the law-abiding citizen" to firearms.[39] Whereas federal law requires firearms dealers to obtain a federal license and makes it unlawful for any person except a licensed entity to distribute a firearm in interstate commerce,[40] Congress has refrained from requiring members of the general population to secure a federal license to acquire or possess firearms. Instead, Congress has excluded from the interstate firearms market the far smaller number of individuals who, in Congress's judgment, are particularly likely to misuse firearms—including felons.

For example, the Federal Firearms Act of 1938 made it unlawful for any person to ship a firearm in interstate commerce to a person who was convicted of a crime of violence, and the Act correspondingly made it unlawful for any person who was convicted of a crime of violence to receive a firearm that was shipped in interstate commerce.[41] In an earlier congressional debate, Senator Copeland explained that Congress was able to overcome "the opposition of sportsmen and other respectable citizens who are the owners of firearms" by formulating a bill that made it "difficult for" criminals "to gain possession of arms and ammunition, but, at the same time, not interfering with the honest man."[42]

Similarly, when Congress enacted a comprehensive overhaul of its firearms legislation in 1968, Congress made explicit that it

39. S. REP. NO. 75-82, at 2 (1937).

40. 18 U.S.C. §§ 922(a), 923.

41. Federal Firearms Act of 1938, ch. 850, §§ 2(d), 2(f), 52 Stat. 1250, 1251.

42. 79 CONG. REC. 11943, 11973 (1935) (statement of Sen. Copeland) (explaining that "the bill was worked out by a committee that included representatives of the Rifle Association and the Pistol Association").

was not the purpose of the new legislation "to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms" for "hunting, trapshooting, target shooting, personal protection, or any other lawful activity."[43] The legislative findings further emphasized that the legislation was "not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes" or to impose any federal requirements "other than those reasonably necessary to implement and effectuate the provisions" of the new statute.[44] To accomplish these competing goals, Congress enacted comprehensive regulations of firearms manufacturers, dealers, and importers, and Congress made it unlawful for felons and certain additional categories of individuals to receive or possess firearms.[45] As in the 1938 legislation, however, Congress refrained from imposing licensing requirements or other burdens on members of the general public who wished to obtain or possess firearms.[46]

In 1986, Congress enacted the Firearms Owners' Protection Act because Congress found that additional legislation was needed to protect the rights of citizens "to keep and bear arms under the Second Amendment" and to reinforce the 1968 legislation's commitment to place no unnecessary burdens on law-abiding citizens' access to firearms.[47] The 1986 legislation liberalized certain aspects of the interstate firearms market, such as by protecting the right of individuals to transport unloaded

43. Gun Control Act of 1968, Pub. L. No. 90-618, § 101, 82 Stat. 1213, 1213–14; *see also* Omnibus Crime Control Act of 1968, Pub. L. No. 90-351, § 901(b), 82 Stat. 197, 226.

44. § 101, 82 Stat. at 1214.

45. *See* Scarborough v. United States, 431 U.S. 563, 569–71 (1977) (describing the related provisions of the Omnibus Crime Control Act of 1968 and the Gun Control Act of 1968).

46. § 101, 82 Stat. at 1213-14.

47. Firearm Owners' Protection Act, Pub. L. No. 99-308, § 1(b), 100 Stat. 449, 449 (1986).

firearms through states where possession of those firearms otherwise would be illegal.[48] But the 1986 legislation coupled these new protections with new restrictions that made it unlawful for any person—not only licensees—to sell or otherwise dispose of firearms to convicted felons and other prohibited categories of persons.[49] The House report explained that the 1986 legislation closed "an existing loophole whereby qualified purchasers have acquired firearms from licensees on behalf of prohibited persons."[50]

The evolution of Congress's firearms regulations thus leaves no doubt that the felon-in-possession ban is an integral part of Congress's broader regulation of the interstate firearms market. So understood, the ban is within Congress's commerce power for reasons that are analogous to ones that the Supreme Court articulated in *Raich*. Just as "a primary purpose of the CSA is to control the supply and demand of controlled substances in both lawful and unlawful drug markets,"[51] a primary purpose of the federal firearms regulations is to control the supply and demand of firearms in both lawful and unlawful firearms markets. The felon-in-possession ban suppresses the demand from felons for a commodity (firearms) for which there is an established and lucrative interstate market. The ban complements Congress's supply-side regulations that make it unlawful for a person to sell or otherwise distribute firearms to felons.[52]

The concurring Fifth Circuit judges in *Bonner* expressed concern that, in a particular case, the felon-in-possession ban

48. § 107, 100 Stat. at 460.

49. § 102, 100 Stat. at 452.

50. H.R. REP. NO. 99-495, at 17 (1986), reprinted in 1986 U.S.C.C.A.N. 1327, 1343. The 1986 legislation also made technical amendments that combined in the Gun Control Act all the provisions "imposing disabilities on felons and other prohibited persons." *Id.*

51. Gonzales v. Raich, 545 U.S. 1, 19 (2005).

52. *See* 18 U.S.C. § 922(d)(1).

requires only "the minimal nexus that the firearm have been, *at some time*, in interstate commerce."[53] That concern is misplaced for two principal reasons. First, under the reasoning of *Raich*, Congress could enact the felon-in-possession ban without requiring *any* case-by-case nexus to interstate commerce. The ban on marijuana possession that was at issue in *Raich* had no jurisdictional element: the Supreme Court upheld that ban because "prohibiting the intrastate possession" of "an article of commerce is a rational (and commonly utilized) means of regulating commerce in that product."[54] Accordingly, in the aftermath of *Raich*, courts of appeals quickly recognized that the federal ban on possession of child pornography must be upheld regardless of their doubts that its jurisdictional element establishes a case-by-case nexus to interstate commerce.[55] The same is true of the felon-in-possession ban.

Second, *Raich* recognized that the practicalities of law enforcement inform the way Congress crafts a possession ban. In *Raich*, the Court noted the "enforcement difficulties that attend distinguishing between marijuana cultivated locally and

53. United States v. Bonner, 159 F.4th 338, 341 (5th Cir. 2025) (Willett, J., concurring) (emphasis added) (quoting Scarborough v. United States, 431 U.S. 563, 575 (1977)); *see also* United States v. Seekins, 52 F.4th 988, 991 (5th Cir. 2022) (Ho., J., dissenting from the denial of rehearing en banc) (noting that the nexus is satisfied by "firearm which was transported in interstate commerce years before the current possession").

54. *Raich*, 545 U.S. at 26.

55. *See, e.g.*, United States v. Maxwell, 446 F.3d 1210, 1218 (11th Cir. 2006) (repudiating the panel's pre-*Raich* opinion and explaining that *Raich* "leads us to the conclusion that it is within Congress's authority to regulate *all* intrastate possession of child pornography, not just that which has traveled in interstate commerce or has been produced using materials that have traveled in interstate commerce"); United States v. Jeronimo-Bautista, 425 F.3d 1266, 1269 (10th Cir. 2005) (explaining that *Raich* shows that the district court had erred in deeming the ban on possess of child pornography unconstitutional as applied to the defendant's conduct).

marijuana grown elsewhere."[56] Similar enforcement difficulties could have arisen if (as Justice Willett and his colleagues imagined) Congress had limited the felon-in-possession ban to firearms that had only recently crossed state lines.[57] Indeed, in *Scarborough*, the Supreme Court explained that the petitioner's similar theories "would significantly impede enforcement efforts" because those "who do acquire guns after their conviction obviously do so surreptitiously."[58]

At a minimum, Congress rationally could have concluded that its "regulatory scheme could be undercut"[59] if the felon-in-possession ban's jurisdictional element was made more demanding. And as the Supreme Court emphasized in *Raich*, the judicial task in assessing the scope of Congress's commerce power is a "modest one."[60] A court "need not determine whether" the regulated activities, "taken in the aggregate, substantially affect interstate commerce in fact, but only whether a 'rational basis' exists for so concluding."[61]

Judge Willett and his colleagues claimed that "Americans disagree passionately" about "whether felons should be punished for possessing firearms," and they argued that states should be free to "pursue innovative, locally tailored solutions to vexing problems."[62] Assuming the factual premise is true, this policy argument should be directed to Congress. It is "beyond peradventure that federal power over commerce is 'superior to

56. *Raich*, 545 U.S. at 22.

57. *See Bonner*, 159 F.4th at 345 (Willett, J., concurring).

58. *Scarborough*, 431 U.S. at 576.

59. *Raich*, 545 U.S. at 36 (Scalia, J., concurring) (quoting United States v. Lopez, 514 U.S. 549, 561 (1995)).

60. *Id.* at 22 (majority opinion).

61. *Id.* (quoting *Lopez*, 514 U.S. at 557).

62. *Bonner*, 159 F.4th at 343 (Willett, J., concurring); *Id.* at 343 n.29 (quoting United States v. Seekins, 52 F.4th 988, 992 (5th Cir. 2022) (Ho, J., dissenting from the denial of rehearing en banc)).

that of the States to provide for the welfare or necessities of their inhabitants' however legitimate or dire those necessities may be."[63]

III. Implications For Other Statutory Provisions

Over time, Congress has expanded the categories of individuals who are prohibited from receiving or possessing firearms. Under current law, these categories include, for example, persons who are addicted to illegal drugs, persons who are committed to mental institutions, aliens who are unlawfully present in the United States, persons who were dishonorably discharged from the military, persons who have renounced their U.S. citizenship, persons who were convicted of a domestic violence misdemeanor, and persons who are under a domestic violence restraining order if specified conditions are met.[64]

For purposes of Congress's commerce power, there is no basis to distinguish these provisions from the felon-in-possession ban. All these provisions (commonly known as "disabilities") are proper exercises of Congress's commerce power for the reasons already discussed.

The more interesting question is whether the same logic extends to the federal ban on possession of body armor by felons. The James Guelff and Chris McCurley Body Armor Act of 2002 made it unlawful for a person convicted of a felony to "purchase, own, or possess body armor," which the Act defines as "any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire."[65] Congress enacted that prohibition because it

63. *Raich*, 545 U.S. at 29 (quoting Maryland v. Wirtz, 392 U.S. 183, 196 (1968) (quoting Sanitary District of Chicago v. United States, 266 U.S. 405, 426 (1925))).

64. *See* 18 U.S.C. § 922(g).

65. James Guelff and Chris McCurley Body Armor Act of 2002, Pub. L. No. 107-273, § 11009(e), 116 Stat. 1819, 1821.

found that, "nationally, police officers and ordinary citizens are facing increased danger as criminals use more deadly weaponry, body armor, and other sophisticated assault gear"; that "crime at the local level is exacerbated by the interstate movement of body armor and other assault gear"; and that the existing federal controls over the "traffic in body armor moving in or otherwise affecting interstate commerce" did not "adequately enable the States to control this traffic within their own borders through the exercise of their police power."[66]

In a 2006 opinion for the Tenth Circuit, Judge McConnell expressed doubt that *Raich*'s reasoning applies to the ban on possession of body armor by felons.[67] He noted that, in contrast to the CSA's comprehensive ban on marijuana, "Congress has not prohibited the manufacture, distribution, sale, possession, or use of body armor."[68] He observed that "members of the U.S. military, federal agents of the CIA and FBI, local police officers, security guards, hunters, convenience store owners" are "free to buy, own, and possess body armor" and that companies are "free to produce and sell it."[69] And he observed that Congress did not make it a crime to sell body armor to a felon or buy it from a felon, and that felons may sell body armor previously acquired or use it as part of a lawful occupation.[70]

Although Judge McConnell's description of the body armor statute was largely accurate, his conclusion that the possession ban exceeds Congress's commerce power does not follow from that description. Under *Raich*, the ultimate question is whether the possession ban is "necessary and proper" to achieve a

66. *Id.* § 11009(b)(1)–(3).

67. United States v. Patton, 451 F.3d 615, 627 (10th Cir. 2006).

68. *Id.*

69. *Id.*

70. *Id.*; *see also* 18 U.S.C. § 931(b)(1) (creating an affirmative defense for felons who use body armor with an employer's certification that the use is necessary for the safe performance of a lawful business activity).

legitimate objective of Congress.[71] The congressional findings in the Body Armor Act show that Congress's objective was to prevent body armor that is sold or offered for sale in the interstate market from being diverted to criminals.[72] That is a legitimate regulation of the interstate body armor market. Contrary to Judge McConnell's suggestion, the Constitution does not put Congress to the choice between suppressing an interstate market in its entirety or leaving it wholly unregulated. And while Congress's commerce power allows it to pair supply-side regulations with demand-side regulations—such as by punishing those who sell body armor to felons in addition to punishing felons who obtain body armor unlawfully—there is no sound constitutional reason to insist that Congress do so.

Conclusion

In short, although Judge Willett and his colleagues have identified an important problem, their search for a solution led them adrift. The answer to the concerns raised in these recent Fifth Circuit opinions is not for the Judiciary to invalidate the work of people's elected representatives. It is instead to think imaginatively and charitably about why Congress crafted its regulations to achieve the benefits of vibrant interstate commerce while minimizing the harm that interstate markets can cause.

71. Gonzales v. Raich, 545 U.S. 1, 5 (2005).

72. James Guelff and Chris McCurley Body Armor Act of 2002, Pub. L. No. 107-273, § 11009(b), 116 Stat. 1819, 1819–20.