Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

UNITED STATES ET AL. *v.* BEAN

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 01–704. Argued October 16, 2002—Decided December 10, 2002

Because of respondent's felony conviction, he was prohibited by 18 U. S. C. §922(g)(1) from possessing, distributing, or receiving firearms or ammunition. Relying on §925(c), he applied to the Bureau of Alcohol, Tobacco, and Firearms (ATF) for relief from his firearms disabilities. ATF returned the application unprocessed, explaining that its annual appropriations law forbade it from expending any funds to investigate or act upon such applications. Invoking §925(c)'s judicial review provision, he filed suit, asking the District Court to conduct its own inquiry into his fitness to possess a gun and to issue a judicial order granting relief. The court granted the requested relief, and the Fifth Circuit affirmed.

Held: The absence of an actual denial by ATF of a felon's petition precludes judicial review under §925(c). The Secretary of the Treasury is authorized to grant relief from a firearms disability if certain preconditions are met, and an applicant may seek federal-court review if the Secretary denies his application. *Ibid.* Since 1992, however, the appropriations bar has prevented ATF, to which the Secretary has delegated this authority, from using appropriated funds to investigate or act upon the applications. Section 925(c)'s text and the procedure it lays out for seeking relief make clear that an actual decision by ATF on an application is a prerequisite for judicial review, and that mere inaction by ATF does not invest a district court with independent jurisdiction. Grammatically, the phrase "denied by the Secretary" references the Secretary's decision on whether an applicant "will not be likely to act in a manner dangerous to public safety," and whether "the granting of the relief would not be contrary to the public interest." Such determination can hardly be construed as anything but a decision actually denying the application. Under §925(c)'s pro-

cedure for those seeking relief, the Secretary, *i.e.,* ATF, has broad authority to grant or deny relief, even when the statutory prerequisites are satisfied. This procedure shows that judicial review cannot occur without a dispositive decision by ATF. First, in the absence of a statutorily defined standard of review for action under §925(c), the Administrative Procedure Act (APA) supplies the applicable standard. 5 U. S. C. §§701(a), 706(2)(A). The APA's "arbitrary and capricious" test, by its nature, contemplates review of some action by another entity. Second, both parts of §925(c)'s standard for granting relief—whether an applicant is "likely to act in a manner dangerous to public safety" and whether the relief is in the "public interest"—are policy-based determinations and, hence, point to ATF as the primary decisionmaker. Third, §925(c) allows the admission of additional evidence in district court proceedings only in exceptional circumstances. Congressional assignment of such a circumscribed role to a district court shows that the statute contemplates that a court's determination will heavily rely on the record and the ATF's decision. Indeed, the very use in §925(c) of the word "review" to describe a court's responsibility in this statutory scheme signifies that it cannot grant relief on its own, absent an antecedent actual denial by ATF. Pp. 2–7.

253 F. 3d 234, reversed.

THOMAS, J., delivered the opinion for a unanimous Court.