

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

January 9, 2014

Lyle W. Cayce
Clerk

No. 13-40625
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

GILBERTO RAMIREZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:12-CR-1985-1

Before JOLLY, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

Gilberto Ramirez pleaded guilty to possession of a firearm by a convicted felon in violation of 18 U.S.C. § 922(g)(1), and he was sentenced to 62 months of imprisonment and three years of supervised release. Represented by the Federal Public Defender, Ramirez raises an argument, in order to preserve the issue for further review, that he correctly concedes is foreclosed by circuit precedent. Ramirez's Commerce Clause challenge to the constitutionality of

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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§ 922(g)(1) is foreclosed, and “the constitutionality of § 922(g) is not open to question.” *United States v. Daugherty*, 264 F.3d 513, 518 (5th Cir. 2001) (quoting *United States v. De Leon*, 170 F.3d 494, 499 (5th Cir. 1999)).

The appellant’s motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.