

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

No. 17-10311
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 6, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

LOUIS LAVARIS, JR.,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 6:16-CR-26-1

Before KING, ELROD, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Louis Lavaris, Jr., appeals his conviction and the 96-month sentence imposed after he pleaded guilty to possession of a firearm by a convicted felon. He asserts that the Government failed to state a federal offense in his indictment because 18 U.S.C. § 922(g)(1) is unconstitutional on its face in that the element “in or affecting commerce” cannot be satisfied merely by the

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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possession of a firearm that had traveled in interstate commerce at some point in time.

As Lavaris concedes, his argument is foreclosed by *United States v. Daugherty*, 264 F.3d 513 (5th Cir. 2001), in which we held that “the constitutionality of § 922(g) is not open to question,” *id.* at 518 (internal quotation marks and citation omitted), and *United States v. Luna*, 165 F.3d 316, 319-22 (5th Cir. 1999), in which we concluded that § 922(j) was similar to § 922(g) and the phrase “shipped or transported in, interstate or foreign commerce,” provided “the requisite nexus to commerce” to allow Congress to exercise its powers under the Commerce Clause. Accordingly, Lavaris’s motion for summary disposition is GRANTED and the judgment is AFFIRMED.