

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

United States Court of Appeals  
Fifth Circuit

**FILED**

April 26, 2018

Lyle W. Cayce  
Clerk

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No. 17-11009  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff–Appellee,

v.

REYNALDO RENDON, JR., also known as Rey Reynold, also known as Rey Rendon,

Defendant–Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 5:17-CR-19-1

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Before JOLLY, OWEN, and HAYNES, Circuit Judges.

PER CURIAM:\*

Reynaldo Rendon, Jr. pleaded guilty to being a felon in possession of a firearm and ammunition. He appeals his conviction, arguing that 18 U.S.C. § 922(g)(1) is unconstitutional. The Government has filed an unopposed motion for summary affirmance arguing that Rendon’s challenge is foreclosed by circuit precedent or, alternatively, requesting an extension of time to file its

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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brief on the merits. The Government does not invoke the waiver provision contained in the plea agreement. *See United States v. Story*, 439 F.3d 226, 230-31 (5th Cir. 2006).

Rendon's argument that § 922(g)(1) is unconstitutional because it exceeds the scope of Congress's power under the Commerce Clause is foreclosed. *See United States v. Alcantar*, 733 F.3d 143, 145-46 (5th Cir. 2013); *United States v. Daugherty*, 264 F.3d 513, 518 (5th Cir. 2001); *United States v. De Leon*, 170 F.3d 494, 499 (5th Cir. 1999). He concedes as much and raises the argument to preserve it for further review. Accordingly, the Government's motion for summary affirmance is GRANTED, the alternative motion for an extension of time to file a brief is DENIED as unnecessary, and the judgment of the district court is AFFIRMED.