

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 11, 2022

Lyle W. Cayce
Clerk

No. 22-10181
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JUAN TERAN,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
No. 3:20-CR-365-1

Before SMITH, DENNIS, and SOUTHWICK, *Circuit Judges.*

PER CURIAM:*

Juan Teran appeals his conviction and sentence for possessing a fire-arm after having been convicted of a felony, in violation of 18 U.S.C. § 922(g). Citing *National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012), Teran argues that § 922(g)(1) exceeds the scope of Congress's power

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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under the Commerce Clause and is thus unconstitutional. He specifically asserts that Congress's power under the Commerce Clause authorizes it to regulate only commercial activity and that the mere travel of an object through interstate commerce is not, by itself, a commercial act.

Teran concedes that his claim is foreclosed by circuit precedent, and he raises the issue to preserve it for further review. The government has filed an unopposed motion for summary affirmance and an alternative request for an extension of time to file its brief. In *United States v. Alcantar*, 733 F.3d 143 (5th Cir. 2013), we noted that we have consistently upheld the constitutionality of § 922(g), a statutory provision that we described as “a valid exercise of Congress’s authority under the Commerce Clause.” *Alcantar*, 733 F.3d at 145. We explained that *National Federation* did not address the constitutionality of § 922(g) and did not express an intention to overrule precedent finding § 922(g) constitutional. *Id.* at 146. Therefore, the parties are correct that Teran’s claim is foreclosed. *See Alcantar*, 733 F.3d at 145–46; *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Accordingly, the motion for summary affirmance is GRANTED, the alternative motion is DENIED as unnecessary, and the judgment is AFFIRMED.