

United States Court of Appeals
for the Fifth Circuit

No. 22-10262
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 6, 2022

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MICHAEL DESHAWN HOMER,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:21-CR-114-1

Before STEWART, DUNCAN, and WILSON, *Circuit Judges.*

PER CURIAM:*

Michael Deshawn Homer pleaded guilty to one count of possession of a firearm by a felon, in violation of 18 U.S.C. § 922(g)(1). He appeals and, relying on *National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012), argues for the first time that § 922(g)(1) exceeds the scope of

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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Congress's power under the Commerce Clause and is thus unconstitutional. The Government has filed an unopposed motion for summary affirmance and an alternative request for an extension of time to file its brief.

Homer correctly concedes that his arguments challenging the constitutionality of § 922(g)(1) are 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 raises the arguments to preserve them for further review.

Because summary disposition is appropriate, *see Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), the Government's motion for summary affirmance is GRANTED, the alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.