

# United States Court of Appeals for the Fifth Circuit

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No. 23-10712  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

January 28, 2025

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

RAY BENJAMIN MARTINEZ,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:23-CR-40-1

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Before KING, SOUTHWICK, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:\*

Ray Benjamin Martinez contends that the statute under which he was convicted, 18 U.S.C. § 922(g)(1), is facially unconstitutional under the Second Amendment in light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022). He also asserts that, as interpreted by this court, the statute exceeds Congress’s authority under the Commerce Clause. The

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\* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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Government has filed an unopposed motion for summary affirmance or, alternatively, for an extension of time in which to file a brief.

The Government is correct that Martinez's challenges are foreclosed. *See United States v. Diaz*, 116 F.4th 458, 471-72 (5th Cir. 2024); *United States v. Alcantar*, 733 F.3d 143, 145-46 (5th Cir. 2013). Therefore, summary affirmance is appropriate. *See Groendyke Transp. Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). The motion for summary affirmance is GRANTED, the alternative motion for an extension of time is DENIED, and the judgment of the district court is AFFIRMED.