

United States Court of Appeals for the Fifth Circuit

No. 23-20190
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 13, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MALIK JOUBERT,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:22-CR-207-1

Before HAYNES, HIGGINSON, and DOUGLAS, *Circuit Judges*.

PER CURIAM:*

Malik Joubert pleaded guilty to possession of a firearm after a felony conviction, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2), and was sentenced to 48 months of imprisonment. On appeal, he contends for the first time that § 922(g)(1) is facially unconstitutional and that it exceeds Congress's authority under the Commerce Clause.

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

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Because Joubert did not challenge the constitutionality of § 922(g)(1) before the district court, review is for plain error. *See United States v. Jones*, 88 F.4th 571, 572 (5th Cir. 2023), *cert. denied*, 144 S. Ct. 1081 (2024). Joubert’s contention that § 922(g)(1) is facially unconstitutional is foreclosed by our decision in *United States v. Diaz*, 116 F.4th 458, 472 (5th Cir. 2024), *petition for cert. filed* (U.S. Feb. 18, 2025) (No. 24-6625). Moreover, as Joubert correctly concedes, his Commerce Clause challenge is foreclosed by *United States v. Alcantar*, 733 F.3d 143, 145–46 (5th Cir. 2013).

AFFIRMED.