

United States Court of Appeals for the Fifth Circuit

No. 23-30597
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 16, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

RAWTAVIOUS MOORE,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 3:22-CR-292-1

Before HIGGINBOTHAM, STEWART, and SOUTHWICK, *Circuit
Judges.*

PER CURIAM:*

Rawtavius Moore appeals his conviction of being a felon in possession of a firearm and ammunition, in violation of 18 U.S.C. § 922(g)(1). Moore contends for the first time on appeal that § 922(g)(1) violates the Second Amendment, in light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 17 (2022). Moore concedes that this court’s review is for

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

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plain error. To demonstrate plain error, Moore must show a clear or obvious error that affected his substantial rights. *See Puckett v. United States*, 556 U.S. 129, 135 (2009).

The Government has filed an unopposed motion for summary affirmance or, in the alternative, for an extension of time to file its brief. As the Government contends, Moore’s argument that the district court plainly erred because § 922(g)(1) is unconstitutional is foreclosed by *United States v. Jones*, 88 F. 4th 571, 573–74 (5th Cir. 2023). In *Jones*, we held that any error was not clear or obvious because there was no binding precedent holding that § 922(g)(1) was unconstitutional and it was unclear that *Bruen* dictated such a result. *Id.* at 574.

Where “there can be no substantial question as to the outcome of the case,” summary disposition is appropriate. *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Accordingly, the motion for summary affirmance is GRANTED, the alternative motion for an extension of time is DENIED, and the district court’s judgment is AFFIRMED.