

United States Court of Appeals for the Fifth Circuit

No. 24-30718
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 27, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DEMARIO D. HENDERSON,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:24-CR-19-1

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

PER CURIAM:*

Demario D. Henderson pleaded guilty to possessing a firearm after a felony conviction, and he was sentenced to 69 months of imprisonment, to be followed by three years of supervised release. On appeal, he renews his contention that 18 U.S.C. § 922(g)(1) violates the Second Amendment, on its face, under the test set forth in *New York State Rifle & Pistol Ass’n, Inc. v.*

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

No. 24-30718

Bruen, 597 U.S. 1 (2022). The Government has moved without opposition for summary affirmance or, alternatively, for an extension of time to file its brief.

Henderson is correct that his arguments are foreclosed. *See United States v. Diaz*, 116 F.4th 458, 471-72 (5th Cir. 2024), *petition for cert. filed* (U.S. Feb. 18, 2025) (No. 24-6625). Because the Government’s position “is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case,” summary affirmance is appropriate. *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Accordingly, the motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED. The Government’s alternative motion for an extension of time is DENIED as moot.