

United States Court of Appeals for the Fifth Circuit

No. 24-50112
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
November 20, 2024
Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DAVID ISAAC, JR.,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:22-CR-37-1

Before HIGGINBOTHAM, JONES, and OLDHAM, *Circuit Judges.*

PER CURIAM:*

David Isaac, Jr. was convicted of possession of a firearm by a convicted felon in violation of 18 U.S.C. § 922(g)(1). Isaac was previously convicted of the felony of aggravated assault with a deadly weapon for firing multiple shots

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

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at someone.[†] *See* TEX. PENAL CODE § 22.02(a)–(b). Isaac argues that § 922(g)(1) is unconstitutional facially and as applied to him.

Recent precedent forecloses both claims. First, we have already held that § 922(g)(1) is facially constitutional. *United States v. Diaz*, 116 F.4th 458, 471–72 (5th Cir. 2024). Second, Isaac’s as-applied challenge is also foreclosed. “From the earliest days of the common law, firearm regulations have included provisions barring people from misusing weapons to harm or menace others.” *United States v. Rahimi*, 144 S. Ct. 1889, 1899 (2024). Here, Isaac previously misused a firearm in an attempt to harm another. A ban on his ability to possess a firearm thus fits easily within our Nation’s historical tradition of firearm regulation. *See id.* at 1888–902. Moreover, we recently held that someone convicted of “car theft” could be constitutionally dispossessed of his firearm. *See Diaz*, 116 F.4th at 467, 471–72. *A fortiori*, someone convicted of aggravated assault with a deadly weapon can be constitutionally dispossessed of a firearm.

AFFIRMED.

[†] Isaac was also convicted of deadly conduct, stemming from an incident where he pointed a firearm at a mother picking up her son from school. That was only a misdemeanor because he did not discharge his weapon. TEX. PENAL CODE § 22.05(e).