

# United States Court of Appeals for the Fifth Circuit

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No. 23-20190  
Summary Calendar

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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.*

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

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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.

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\* 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.