

United States Court of Appeals
for the Fifth Circuit

No. 23-30567
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 5, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CORTLIN REESE,

Defendant—Appellant.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:22-CR-100-1

Before KING, HAYNES, and GRAVES, *Circuit Judges.*

PER CURIAM:*

Cortlin Reese pleaded guilty to receipt of firearms while under a felony indictment in violation of 18 U.S.C. § 922(n) and possession of firearms by a person convicted of domestic violence in violation of § 922(g)(9). For the first time on appeal, Reese argues that § 922(n) and § 922(g)(9) are

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

unconstitutional under the Second Amendment in view of *New York Rifle & Pistol Ass’n, Inc v. Bruen*, 597 U.S. 1 (2022).

Because Reese failed to preserve his claims, our review is for plain error only. See *United States v. Snarr*, 704 F.3d 368, 382 (5th Cir. 2013). To prevail on plain error review, Reese must show a forfeited error that is clear or obvious and that affects his substantial rights. See *Puckett v. United States*, 556 U.S. 129, 135 (2009). If he makes that showing, this court has the discretion to correct the error, but only if it “seriously affects the fairness, integrity or public reputation of judicial proceedings.” *Id.* (internal quotation marks, citation, and brackets omitted).

In *United States v. Jones*, 88 F.4th 571, 573-74 (5th Cir. 2023), *cert. denied*, 2024 WL 1143799 (U.S. Mar. 18, 2024) (No. 23-6769), this court rejected a plain-error challenge to the constitutionality of § 922(g)(1) in view of *Bruen*. The court determined that any error was not clear or obvious because there was no binding precedent holding § 922(g)(1) was unconstitutional and it was unclear that *Bruen* dictated such a result. *Jones*, 88 F.4th at 573-74; *see also United States v. Sanches*, 86 F.4th 680, 686-87 (5th Cir. 2023) (rejecting plain error challenges to § 922(d)(1) and § 922(a)(6) under *Bruen*).

Reese cannot show that any error was clear or obvious because it is unclear whether § 922(g)(9) and § 922(n) are unconstitutional in view of *Bruen* and the application of *Bruen* to those statutes would require the extension of precedent. See *Puckett*, 556 U.S. at 135; *Jones*, 88 F.4th at 573-74. Therefore, Reese has not shown reversible plain error. See *Jones*, 88 F.4th at 574.

AFFIRMED.