

United States Court of Appeals for the Fifth Circuit

No. 23-30843

United States Court of Appeals
Fifth Circuit

FILED

November 7, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

BROXSTONIE DEMICHAEL MITCHELL,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:21-CR-299-1

Before JOLLY, HIGGINSON, and DUNCAN, *Circuit Judges*.

PER CURIAM:*

Broxstonie Demichael Mitchell pleaded guilty to 18 U.S.C. § 922(g)(1), possession of a firearm by a felon. He now appeals his conviction, raising a Second Amendment facial challenge to the constitutionality of § 922(g)(1). Because a panel of our court recently held that § 922(g)(1) is facially constitutional under the Second Amendment, Mitchell's constitutional challenge is clearly foreclosed. *See United States v. Diaz*, 116 F.4th 458, 471–

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

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72 (5th Cir. 2024); *see also Bonvillian Marine Serv., Inc. v. Pellegrin (In re Bonvillian Marine Serv., Inc.)*, 19 F.4th 787, 792 (5th Cir. 2021) (providing that a panel of our court cannot overturn another panel unless there is an intervening change in the law, such as by statute, the en banc court, or the Supreme Court). As a result, the parties' disputes over whether Mitchell's challenge is preserved and, in turn, what standard of review applies are moot. *See Diaz*, 116 F.4th at 471–72 (finding that § 922(g)(1) survives a preserved facial challenge); *United States v. Jones*, 88 F.4th 571, 574 (5th Cir. 2023) (finding that § 922(g)(1) survives an unpreserved facial challenge). Accordingly, Mitchell's conviction is, in all respects,

AFFIRMED.