

# United States Court of Appeals for the Fifth Circuit

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No. 24-30419  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

January 15, 2025

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

GMERRIO UNDERWOOD,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 5:23-CR-49-2

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

PER CURIAM:\*

Gmerrio Underwood contends that the statute under which he was convicted, 18 U.S.C. § 922(g)(1), is facially unconstitutional under the Second Amendment in light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022). The Government has filed an unopposed motion

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

No. 24-30419

for summary affirmance or, alternatively, for an extension of time in which to file a brief.

As Underwood concedes, his Second Amendment challenge to § 922(g)(1) is foreclosed. *See United States v. Diaz*, 116 F.4th 458, 471-72 (5th Cir. 2024). Therefore, summary affirmance is appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). The motion for summary affirmance is GRANTED, the alternative motion for an extension of time is DENIED, and the judgment of the district court is AFFIRMED.