

United States Court of Appeals for the Fifth Circuit

No. 24-30488
CONSOLIDATED WITH
No. 24-30491
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 14, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

KERRY D. GAYFIELD,

Defendant—Appellant.

Appeals from the United States District Court
for the Western District of Louisiana
USDC Nos. 3:13-CR-269-1, 3:24-CR-32-1

Before SMITH, STEWART, and DUNCAN, *Circuit Judges*.

PER CURIAM:*

Kerry Gayfield appeals following his conviction of possession of a firearm by a convicted felon in violation of 18 U.S.C. § 922(g)(1) and the revocation of a previously imposed term of supervised release. He contends that § 922(g)(1) is facially unconstitutional under the Second Amendment in light

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

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of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022). He concedes that that argument is foreclosed by *United States v. Diaz*, 116 F.4th 458, 471–72 (5th Cir. 2024); he presents the issue on appeal to preserve it for further review. The government has filed an unopposed motion for summary affirmance or, in the alternative, for an extension of time in which to file its brief.

Because the claim is foreclosed, summary affirmance is appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). The motion is GRANTED, the alternative motion is DENIED, and the judgments are AFFIRMED.