

United States Court of Appeals for the Fifth Circuit

No. 24-30542
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 6, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

TIMOTHY L. ELLIOTT,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 3:23-CR-282-1

Before KING, SOUTHWICK, and ENGELHARDT, *Circuit Judges*.

PER CURIAM:*

Timothy L. Elliott pleaded guilty to possession of a firearm after a felony conviction, in violation of 18 U.S.C. § 922(g)(1). On appeal, Elliott argues that § 922(g)(1) is facially unconstitutional under the Second Amendment in light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597

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

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U.S. 1 (2022). The Government has filed an unopposed motion for summary affirmance or, alternatively, for an extension of time to file a brief.

Elliott’s constitutional challenge to § 922(g)(1) is foreclosed. *See United States v. Diaz*, 116 F.4th 458, 471–72 (5th Cir. 2024), *petition for cert. filed* (U.S. Feb. 24, 2025) (No. 24-6625). Because the Government’s position “is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case,” summary affirmance is appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Accordingly, the Government’s motion for summary affirmance is GRANTED, the alternative motion for an extension of time is DENIED, and the district court’s judgment is AFFIRMED.