

# United States Court of Appeals for the Fifth Circuit

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No. 24-50183  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

December 31, 2024

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

RAFAEL DOMINGUEZ,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 7:23-CR-99-1

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Before HIGGINBOTHAM, JONES, and OLDHAM, *Circuit Judges*.

PER CURIAM:\*

Rafael Dominguez was convicted of possession of a firearm by a convicted felon in violation of 18 U.S.C. § 922(g)(1). On appeal, Dominguez argues that § 922(g)(1) is facially unconstitutional under the Second Amendment. This argument is foreclosed by our precedent. *See United States v. Diaz*, 116 F.4th 458, 471–72 (5th Cir. 2024). Although Dominguez raised an

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

as-applied challenge below, he failed to raise it before this court. That argument is thus abandoned. *See Cinel v. Connick*, 15 F.3d 1338, 1345 (5th Cir. 1994); FED. R. APP. P. 28(a)(8)(A). Finally, Dominguez asserts that § 922(g)(1) violates the Commerce Clause. But as Dominguez recognizes, this argument is also foreclosed by our prior decisions. *See, e.g., United States v. Perryman*, 965 F.3d 424, 426 (5th Cir. 2020).

AFFIRMED.