

United States Court of Appeals for the Fifth Circuit

No. 24-50188
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 18, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MARCO ANTONIO SANCHEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:23-CR-177-1

Before HIGGINBOTHAM, ENGELHARDT, and RAMIREZ, *Circuit Judges.*

PER CURIAM:*

Marco Antonio Sanchez pleaded guilty to possession of a firearm after a felony conviction. He now appeals his conviction and sentence, renewing his arguments that 18 U.S.C. § 922(g)(1) violates the Second Amendment on

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

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its face and as applied to Sanchez and exceeds Congress's powers under the Commerce Clause.

Sanchez's facial challenge to § 922(g)(1) is foreclosed by *United States v. Diaz*, 116 F.4th 458, 471-72 (5th Cir. 2024), *cert. denied*, 2025 WL 1727419 (U.S. June 23, 2025) (No. 24-6625). He also correctly concedes that his as-applied challenge is foreclosed. *See United States v. Schnur*, 132 F.4th 863, 871 (5th Cir. 2025). Additionally, Sanchez's theory that § 922(g)(1) is unconstitutional because it exceeds Congress's power under the Commerce Clause is foreclosed by *United States v. Alcantar*, 733 F.3d 143, 145-46 (5th Cir. 2013).

He also renews his challenge that the district court erred in applying the U.S.S.G. § 2K2.1(c)(1)(A) cross-reference to the attempted first-degree murder guideline at U.S.S.G. § 2A2.1 because there was insufficient evidence that Sanchez committed attempted first-degree murder. Even assuming the district court erred in applying the enhanced base offense level, any error was harmless. *See United States v. Ibarra-Luna*, 628 F.3d 712, 718 (5th Cir. 2010); *United States v. Guzman-Rendon*, 864 F.3d 409, 411 (5th Cir. 2017).

Accordingly, the district court's judgment is AFFIRMED.