

United States Court of Appeals for the Fifth Circuit

No. 24-50363
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 21, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOSE ANTONIO HERNANDEZ,

Defendant—Appellant,

CONSOLIDATED WITH

No. 24-50380

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOSE HERNANDEZ,

Defendant—Appellant.

No. 24-50363
c/w No. 24-50380

Appeals from the United States District Court
for the Western District of Texas
USDC Nos. 7:23-CR-210-1,
7:20-CR-309-1

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

PER CURIAM: *

Jose Antonio Hernandez argues that his statute of conviction, 18 U.S.C. § 922(g)(1), violates the Second Amendment on its face and as applied to him in light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022). In addition, he contends that § 922(g)(1) violates the Commerce Clause. He has abandoned, by failing to brief, any argument regarding the consolidated appeal from his supervised release revocation proceeding. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993).

Hernandez correctly concedes that his facial Second Amendment challenge is foreclosed. *See United States v. Contreras*, 125 F.4th 725, 729 (5th Cir. 2025). Also, because Hernandez was serving a term of supervised release when he violated § 922(g)(1), the statute does not violate the Second Amendment as applied to him. *See United States v. Giglio*, 126 F.4th 1039, 1043-46 (5th Cir. 2025). Finally, as Hernandez correctly acknowledges, his Commerce Clause challenge is foreclosed. *See United States v. Diaz*, 116 F.4th 458, 462 (5th Cir. 2024).

AFFIRMED.

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