

United States Court of Appeals for the Fifth Circuit

No. 24-50763
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 12, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

GILBERT RAMIREZ, JR.,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:23-CR-459-1

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

PER CURIAM:*

Gilbert Ramirez, Jr., appeals his guilty plea conviction for possession of a firearm after a felony conviction, in violation of 18 U.S.C. § 922(g)(1). At the time he committed the § 922(g)(1) offense of which he was convicted, Ramirez had a prior felony conviction for robbery. He argues that § 922(g)(1) exceeds Congress's power under the Commerce Clause and violates the

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

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Second Amendment, both on its face and as applied to him, in light of the test set forth in *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022). The Government has filed a motion for summary affirmance or, in the alternative, an extension of time to file a merits brief.

Summary affirmance is appropriate if “the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case.” *United States v. Holy Land Found. For Relief & Dev.*, 445 F. 3d 771, 781 (5th Cir. 2006) (quoting *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969)). The Government is correct that Ramirez’s arguments are foreclosed. *See United States v. Diaz*, 116 F.4th 458, 462, 467-72 (5th Cir. 2024), *cert. denied*, 2025 WL 1727419 (U.S. June 23, 2025) (No. 24-6625); *United States v. Schnur*, 132 F.4th 863, 871 (5th Cir. 2025). Because *Diaz* and *Schnur* are clearly dispositive, we affirm the district court’s judgment without further briefing. *See United States v. Bailey*, 924 F.3d 1289, 1290 (5th Cir. 2019).

The motion for summary affirmance is GRANTED, the alternative motion for an extension of time is DENIED as moot, and the judgment of the district court is AFFIRMED.