

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

June 4, 2021

Lyle W. Cayce
Clerk

No. 20-11087
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CYZE AJJAN RODGERS,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:19-CR-565-1

Before CLEMENT, HIGGINSON, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

Cyze Ajjan Rodgers pleaded guilty to possession of a firearm by a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2), and he was sentenced to 116 months of imprisonment and three years of supervised release. Rodgers argues on appeal that the district court committed plain

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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error because the two prior Texas assault offenses that were used to calculate his base offense level include the reckless causation of injury, and thus they did not have “as an element the use, attempted use, or threatened use of physical force against the person of another,” which would qualify them as crimes of violence. U.S.S.G. § 4B1.2(a)(1); *see* U.S.S.G. § 2K2.1, cmt. (n.1). He concedes that this argument is foreclosed. *See United States v. Gracia-Cantu*, 920 F.3d 252, 254 (5th Cir. 2019), and *United States v. Burris*, 920 F.3d 942, 952 (5th Cir. 2019), *petition for cert. filed* (U.S. Oct. 3, 2019) (No. 19-6186). However, he seeks to preserve the issue for further review. Agreeing that the issue is foreclosed, the Government has filed an unopposed motion for summary affirmance or, in the alternative, a motion for an extension of time to file a brief.

The parties are correct that Rodgers’s argument is foreclosed. *See Burris*, 920 F.3d at 952; *Gracia-Cantu*, 920 F.3d at 254. Accordingly, the Government’s motion for summary affirmance is GRANTED, *see Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), the Government’s alternative motion for an extension of time to file a brief is DENIED as moot, and the judgment is AFFIRMED.