

United States Court of Appeals  
for the Fifth Circuit

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No. 22-10435  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

January 10, 2023

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

ANTONIO DEMOND BAKER,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:21-CR-270-1

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

PER CURIAM:\*

Antonio Demond Baker pleaded guilty to one count of possession of a firearm by a felon, in violation of 18 U.S.C. § 922(g). He appeals and, relying on *National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012), argues for the first time that § 922(g)(1) exceeds the scope of Congress's

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 22-10435

power under the Commerce Clause and is unconstitutional. The Government has filed an unopposed motion for summary affirmance and an alternative request for an extension of time to file its brief.

Baker correctly concedes that his arguments challenging the constitutionality of § 922(g)(1) are foreclosed. *See United States v. Alcantar*, 733 F.3d 143, 145-46 (5th Cir. 2013); *United States v. Daugherty*, 264 F.3d 513, 518 (5th Cir. 2001); *United States v. De Leon*, 170 F.3d 494, 499 (5th Cir. 1999). He raises the arguments to preserve them for further review.

Because summary disposition is appropriate, *see Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), the Government's motion for summary affirmance is GRANTED, the alternative motion for an extension of time to file a brief is DENIED AS MOOT, and the judgment of the district court is AFFIRMED.