

United States Court of Appeals for the Fifth Circuit

No. 22-10719
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 9, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

LARRY CARL MACK,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:21-CR-385-1

Before WIENER, ELROD, and ENGELHARDT, *Circuit Judges*

PER CURIAM:*

Larry Carl Mack pleaded guilty to one count of possession of a firearm by a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). He appeals and, relying on *National Federation of Independent Business et al. v. Sebelius et al.*, 567 U.S. 519 (2012), argues for the first time that § 922(g)(1) exceeds the scope of Congress's power under the Commerce Clause and is

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

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thus unconstitutional. The Government has filed an unopposed motion for summary affirmance and an alternative request for an extension of time to file its brief.

Mack 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, and the judgment of the district court is AFFIRMED.