

United States Court of Appeals for the Fifth Circuit

No. 22-51019
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 2, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellant,

versus

LITSSON ANTONIO PEREZ-GALLAN,

Defendant—Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:22-CR-427-1

Before DAVIS, STEWART, and OLDHAM, *Circuit Judges.*

PER CURIAM:*

The Government appeals the dismissal of an indictment charging Litsson Antonio Perez-Gallan under 18 U.S.C. § 922(g)(8) with possession of a firearm by someone subject to a domestic violence restraining order. Perez-Gallan moves for summary affirmance, relying on *United States v. Rahimi*, 61 F.4th 443 (5th Cir. 2023), *cert. granted*, 2023 WL 4278450 (U.S.

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

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June 30, 2023) (No. 22-915). Alternatively, Perez-Gallan moves for an extension of time to file an appellee brief.

As the parties concede, the Government's appeal is foreclosed by *Rahimi*, 61 F.4th at 461. The grant of certiorari in *Rahimi* does not override this court's precedent. See *Wicker v. McCotter*, 798 F.2d 155, 157-58 (5th Cir. 1986).

Accordingly, Perez-Gallan's motion for summary affirmance is GRANTED, his alternative motion for an extension of time to file his appellee brief is DENIED, and the judgment of the district court is AFFIRMED. See *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).