

United States Court of Appeals for the Fifth Circuit

No. 23-50030
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 23, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellant,

versus

DEONTE KYRIQUE HICKS,

Defendant—Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:21-CR-60-1

Before GRAVES, WILLETT, and WILSON, *Circuit Judges*.

PER CURIAM:*

The Government appeals the dismissal of Deonte Kyrique Hicks's indictment. The district court held that the statute underlying the indictment, 18 U.S.C. § 922(n), is facially unconstitutional under the Second Amendment in light of *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*,

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

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597 U.S. 1 (2022). The Government now seeks summary disposition or, in the alternative, an extension of time to file its brief.

Because Hicks opposes summary disposition and has not conceded that controlling precedent forecloses his position, we decline to grant the Government's motion. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969); *Khan v. Garland*, No. 21-60372, 2021 WL 5227077, at *1 (5th Cir. Nov. 9, 2021). Even so, the Government is correct that the district court's dismissal runs afoul of *United States v. Quiroz*, 125 F.4th 713, 717-25 (5th Cir. 2025), *petition for cert. filed* (U.S. May 29, 2025) (No. 24-7342). In light of *Quiroz*, no further briefing is necessary. *See United States v. Bailey*, 924 F.3d 1289, 1290 (5th Cir. 2019).

We therefore DENY the Government's motion for summary disposition, REVERSE the district court's dismissal order, and REMAND for further proceedings. The Government's alternative motion for an extension of time to file a brief is DENIED AS MOOT.