

United States Court of Appeals for the Fifth Circuit

No. 24-11064
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 9, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DAYVEON BATISTE,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:22-CR-31-1

Before KING, HAYNES, and HO, *Circuit Judges.*

PER CURIAM: *

Dayveon Batiste appeals his conviction for receipt of a firearm by a person under felony indictment in violation of 18 U.S.C. § 922(n). Batiste argues that § 922(n) is unconstitutional under the Second Amendment in the light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022).

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

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He also argues that § 922(n) exceeds Congress's power under the Commerce Clause. The Government moves for summary affirmance on both issues or, alternatively, for an extension of time to file a brief.

With respect to the Second Amendment issue, Batiste concedes that the issue is foreclosed by *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). Accordingly, we summarily affirm that argument.

With respect to the Commerce Clause issue, Batiste did not respond to the Government's motion and his appeal brief makes clear that his argument is not likely to prevail. We conclude that his claim is not viable in light of *United States v. Alcantar*, 733 F.3d 143, 145-46 (5th Cir. 2013). *See also United States v. Waldman*, No. 21-10637, 2021 WL 6101365, at *1 (5th Cir. Dec. 21, 2021). Even if the disagreement among the parties leads to not granting the summary affirmance on that point, we have no need for further briefing.

Accordingly, we AFFIRM.