

United States Court of Appeals
for the Fifth Circuit

No. 24-50527

United States Court of Appeals
Fifth Circuit

FILED

July 9, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CHRISTOPHER DEONTA HEMPHILL,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:22-CR-111-1

Before SOUTHWICK, OLDHAM, and RAMIREZ, *Circuit Judges*.

PER CURIAM:*

Christopher Hemphill challenges his conviction for being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1), arguing that § 922(g)(1) is unconstitutional as applied to him. We AFFIRM.

I

After Hemphill was pulled over by the Waco Police Department for a traffic violation on June 16, 2022, he was arrested due to outstanding

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

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warrants. He admitted to the arresting officers that he was in possession of a firearm, and they found a loaded firearm in his backpack. Hemphill had four prior felony convictions: one for burglary of a habitation, one for evading arrest, and two for being a felon in possession of a firearm. He was also serving a term of supervised release.

Hemphill was charged in a one-count indictment with being a felon in possession of a firearm in violation of § 922(g)(1). He moved to dismiss the indictment based on *New York State Rifle & Pistol Ass’n Inc. v. Bruen*, 597 U.S. 1 (2022), arguing that § 922(g)(1) violated the Second Amendment on its face and as applied to him. After the district court denied his motion, Hemphill pleaded guilty under a plea agreement in which he reserved his right to appeal. Hemphill only appeals the denial of his as-applied challenge.

II

Hemphill’s challenge is foreclosed based on *United States v. Schnur*, 132 F.4th 863 (5th Cir. 2025), and *United States v. Diaz*, 116 F.4th 458 (5th Cir. 2024), *cert. denied*, --- S. Ct. ----, 2025 WL 1727419 (June 23, 2025) (No. 24-6625).

In *Diaz*, we rejected an as-applied challenge to § 922(g)(1) under the *Bruen* framework because disarming an individual convicted of car theft fit within the Nation’s historical tradition of regulating firearms. 116 F.4th at 468–72. *Diaz* left open the possibility that as-applied challenges to § 922(g)(1) under the Second Amendment could succeed, depending on the predicate convictions and whether history and tradition support disarming individuals convicted of those crimes. *Id.* at 470 n.4. We recently held in *Schnur*, however, that *Diaz* also forecloses an as-applied challenge by an individual convicted of “theft-related” offenses such as robbery and burglary. *See Schnur*, 132 F.4th at 870–71. Because one of Hemphill’s

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predicate convictions here is burglary of a habitation, his as-applied challenge is foreclosed.¹

* * *

The district court's judgment of conviction is AFFIRMED.

¹ Alternatively, Hemphill's as-applied challenge fails under *United States v. Giglio*, 126 F.4th 1039, 1043–46 (5th Cir. 2025), and *United States v. Contreras*, 125 F.4th 725, 732–33 (5th Cir. 2025), which held that the Second Amendment “allows the [G]overnment to disarm individuals who are carrying out criminal sentences,” including defendants who are on supervised release at the time of arrest.