

United States Court of Appeals for the Fifth Circuit

No. 24-50598
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 25, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

WESLEY DYLAN TALMAGE SIMS,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:24-CR-33-1

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

PER CURIAM:*

Wesley Dylan Talmage Sims was convicted of possession of a firearm following a felony conviction, in violation of 18 U.S.C. § 922(g)(1). He challenges his conviction on appeal, asserting that § 922(g)(1) violates the Second Amendment as applied to him.

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

No. 24-50598

As the Government concedes, even if Sims failed to adequately preserve this issue in the district court and plain error applies, his conviction must be reversed. Here, Sims's § 922(g)(1) conviction was predicated on his Texas felony conviction for possession of a controlled substance. We have held that § 922(g)(1) violates the Second Amendment as applied to a defendant whose predicate felony was simple drug possession. *See United States v. Hembree*, 165 F.4th 909, 911-18 (5th Cir. 2026), *petition for cert. filed* (U.S. Apr. 24, 2026) (No. 25-1219).

Therefore, we hold that § 922(g)(1), as applied to Sims, violates the Second Amendment, and we REVERSE his conviction.