

# United States Court of Appeals for the Fifth Circuit

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No. 25-10284  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

July 25, 2025

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

CHOCKIE LEE HIGHTOWER,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:24-CR-194-1

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Before HIGGINBOTHAM, JONES, and OLDHAM, *Circuit Judges*.

PER CURIAM:\*

Chockie Lee Hightower appeals his guilty plea conviction for a single count of possession of a stolen firearm in violation of 18 U.S.C. § 922(j). For the first time on appeal, he contends that courts have incorrectly decided that possessory offenses under § 922 require no more than the minimal nexus that the firearm has been, at some time, in interstate commerce. Alternatively, he

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

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argues that § 922(j), as presently interpreted, is unconstitutional because it exceeds the scope of Congress's authority under the Commerce Clause. He asserts that his guilty plea therefore was invalid because there was a deficient factual basis.

We do not address the appeal waiver in Hightower's plea agreement because the Government has opted not to assert its applicability. Instead, the Government has filed a motion for summary affirmance or, alternatively, for an extension of time to file its brief. The motion for summary affirmance is unopposed: Hightower concedes that his claims are foreclosed by precedent and asserts that he has raised them to preserve them for further review.

Hightower is correct that his claims are foreclosed. *See Scarborough v. United States*, 431 U.S. 563, 575 (1977); *United States v. Alcantar*, 733 F.3d 143, 145-46 (5th Cir. 2013); *United States v. Luna*, 165 F.3d 316, 319-22 (5th Cir. 1999). Thus, summary affirmance is proper. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Therefore, the Government's motion for summary affirmance is GRANTED, its alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.