

United States Court of Appeals
for the Fifth Circuit

No. 25-10829
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 23, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ROBERT CARLOS CERRILLO,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:23-CR-66-1

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

PER CURIAM:*

Robert Carlos Cerrillo pleaded guilty to a single count of possession of a firearm after a felony conviction in violation of 18 U.S.C. § 922(g)(1). Following a remand for resentencing, the district court sentenced Cerrillo within the applicable guidelines range to 120 months of imprisonment and three years of supervised release. He challenges his conviction and sentence.

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

No. 25-10829

Cerrillo argues that the district court erred in applying the U.S.S.G. § 2K2.1(c)(1)(A) cross-reference to the attempted second-degree murder guideline provision at U.S.S.G. § 2A2.1 because there was insufficient evidence that he intended to kill the victim when he shot him. Because Cerrillo admitted to police that he aimed at the victim and fired a shot, we conclude that the district court did not clearly err in finding an intent to kill and applying the cross-reference. *See United States v. Abrego*, 997 F.3d 309, 312 (5th Cir. 2021). Moreover, even if this argument had merit, any error in applying the cross-reference was harmless. *See United States v. Guzman-Rendon*, 864 F.3d 409, 411 (5th Cir. 2017); *United States v. Ibarra-Luna*, 628 F.3d 712, 718 (5th Cir. 2010).

As Cerrillo acknowledges, his facial challenge to the constitutionality of § 922(g)(1) is foreclosed by *United States v. Diaz*, 116 F.4th 458, 471-72 (5th Cir. 2024), *cert. denied* 145 S. Ct. 2822 (2025).

Accordingly, the district court's judgment is AFFIRMED.