

United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 12, 2026

Lyle W. Cayce
Clerk

No. 25-50039
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

SAN YNES PATINO,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:24-CR-60-1

Before ELROD, *Chief Judge*, and SOUTHWICK and RAMIREZ, *Circuit Judges*.

PER CURIAM:*

San Ynes Patino 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.

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The government concedes that we must reverse Patino's conviction in light of *United States v. Hembree*, 165 F.4th 909, 911 (5th Cir. 2026), *petition for cert. filed* (U.S. Apr. 24, 2026) (No. 25-1219), which held that § 922(g)(1) violates the Second Amendment as applied to a defendant whose predicate felony is simple drug possession, *id.* at 911–18.

Likewise, here, Patino's § 922(g)(1) conviction was predicated on his felony conviction for simple drug possession. Therefore, we hold that § 922(g)(1), as applied to Patino, violates the Second Amendment, and we REVERSE his conviction.