

United States Court of Appeals
for the Fifth Circuit

No. 25-50247
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 20, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DAVID MANUEL GARCIA,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:19-CR-71-1

Before STEWART, GRAVES, and OLDHAM, *Circuit Judges.*

PER CURIAM:*

David Manuel Garcia appeals from his conviction for engaging in illicit sexual conduct in a foreign place as prohibited under 18 U.S.C. § 2423(c). On appeal, he argues that § 2423(c) is unconstitutional because it exceeds congressional authority to regulate interstate and foreign commerce. Although he unsuccessfully moved in district court to dismiss the

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

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indictment, his motion was not based on the same constitutional grounds he raises now. We review unpreserved constitutional challenges for plain error only. *See United States v. Jones*, 88 F.4th 571, 572 (5th Cir. 2023).

In support of this challenge, Garcia relies on *United States v. Morrison*, 529 U.S. 598 (2000), and *United States v. Lopez*, 514 U.S. 549 (1995). However, he admits that this is an issue of first impression in this court. Because Garcia is not relying on any cases involving § 2423(c), he cannot show plain error on this basis. *See United States v. Vargas-Soto*, 700 F.3d 180, 182 (5th Cir. 2012) (holding that “an error is not plain if it requires the extension of precedent”).

Accordingly, the district court’s judgment is AFFIRMED.