

United States Court of Appeals for the Fifth Circuit

No. 25-51008
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 14, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

NESTOR JOSE MENDOZA-GARCIA,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:25-CR-24-1

Before HAYNES, GRAVES, and RAMIREZ, *Circuit Judges*.

PER CURIAM:*

Nestor Jose Mendoza-Garcia appeals his conviction under 18 U.S.C. § 922(g)(5) for possession of a firearm by an illegal alien, renewing his argument that § 922(g)(5) is unconstitutional because it violates the Second Amendment as applied in his case and exceeds Congress's power under the Commerce Clause.

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

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The Government moves for summary affirmance, citing *United States v. Medina-Cantu*, 113 F.4th 537, 539 n.1, 542 (5th Cir. 2024), *cert. denied*, 145 S. Ct. 1318 (2025), which upheld the constitutionality of § 922(g)(5) under the Second Amendment and rejected Mendoza-Garcia’s Commerce Clause challenge. Although Mendoza-Garcia takes no position on the motion for summary affirmance, he has conceded that his claims are foreclosed and seeks to preserve them for further review.

Because “there can be no substantial question as to the outcome of the case,” *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), the Government’s motion for summary affirmance is GRANTED, and its alternative motion for an extension of time to file an appellate brief is DENIED as moot. The judgment of the district court is AFFIRMED.