

United States Court of Appeals for the Fifth Circuit

No. 26-60047
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

September 9, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ELTON WAYNE FAIRLEY,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:25-CR-54-1

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

PER CURIAM:*

Elton Wayne Fairley pleaded guilty to possession of a firearm after felony conviction, and he was sentenced to 42 months of imprisonment. On appeal, he renews his arguments that 18 U.S.C. § 922(g)(1) is unconstitutional on its face and as applied to him under the Second Amendment based on *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022). He further renews his argument that § 922(g)(1) exceeds

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

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Congress’s authority under the Commerce Clause. The Government has moved without opposition for summary affirmance.

Fairley correctly concedes that his arguments are foreclosed. *See United States v. Diaz*, 116 F.4th 458, 462, 467–72 (5th Cir. 2024), *cert. denied*, 145 S. Ct. 2822 (2025); *United States v. Giglio*, 126 F.4th 1039, 1044–45 (5th Cir. 2025). Because the Government’s position “is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case,” summary affirmance is appropriate. *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Accordingly, the motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.