

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

TERRANCE V. FRELIX,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

APPENDIX

/s/ Kevin Joel Page

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Appendix A Judgment and Opinion of Fifth Circuit, CA No. 20-11148, dated July 22, 2021, *United States v. Frelix*, 853 Fed. Appx. 971. (unpublished)

Appendix B Judgment and Sentence of the United States District Court for the Northern District of Texas, entered November 13, 2020. *United States v. Frelix*, Dist. Court 4:20-CR-00123-Y-1.

APPENDIX A

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

July 22, 2021

Lyle W. Cayce
Clerk

No. 20-11148
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

TERRANCE V. FRELIX,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:20-CR-123-1

Before DAVIS, JONES, and ELROD, *Circuit Judges*.

J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

July 22, 2021

Lyle W. Cayce
Clerk

No. 20-11148
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

TERRANCE V. FRELIX,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:20-CR-123-1

Before DAVIS, JONES, and ELROD, *Circuit Judges*.

PER CURIAM:*

Terrance V. Frelux appeals his conviction for possessing a firearm after having been convicted of a felony offense. *See* 18 U.S.C. § 922(g)(1). He contends that § 922(g)(1) exceeds Congress's power to legislate on issues affecting interstate commerce, and he cites *National Federation of Independent*

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 20-11148

Business v. Sebelius, 567 U.S. 519 (2012). Frelix concedes that his argument is foreclosed by *United States v. Alcantar*, 733 F.3d 143 (5th Cir. 2013), but he seeks to preserve the issue for future review. Agreeing that *Alcantar* forecloses relief, the Government moves for summary affirmance or, alternatively, for an extension of time in which to file a merits brief.

The parties are correct that Frelix's argument is foreclosed. *See Alcantar*, 733 F.3d at 145-46; *see generally Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Accordingly, the Government's motion for summary affirmance is GRANTED. Its alternative motion for an extension of time is DENIED. The judgment is AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
Fort Worth Division

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

Case Number: 4:20-CR-123-Y(1)

Aisha Saleem, assistant U.S. attorney

TERRANCE V. FRELIX

Loui Itoh, attorney for the defendant

On July 15, 2020, the defendant, Terrance V. Frelux, entered a plea of guilty to count one of the one-count indictment. Accordingly, the defendant is adjudged guilty of such count, which involves the following offense:

<u>TITLE & SECTION</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE CONCLUDED</u>	<u>COUNT</u>
18 U.S.C. §§ 922(g)(1) and 924(a)(2)	Possession of a Firearm by a Convicted Felon	April 20, 2020	1

The defendant is sentenced as provided in pages two through three of this judgment. The sentence is imposed under Title 18, United States Code § 3553(a), taking the guidelines issued by the United States Sentencing Commission under Title 28, United States Code § 994(a)(1), as advisory only.

The defendant shall pay immediately a special assessment of \$100.00 for count one of the one-count indictment.

The defendant shall notify the United States attorney for this district within thirty days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Sentence imposed November 10, 2020.


TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

Signed November 13, 2020.

Judgment in a Criminal Case

Defendant: Terrance V. Frelix

Case Number: 4:20-CR-123-Y(1)

Judgment -- Page 2 of 3

IMPRISONMENT

The defendant, Terrance V. Frelix, is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 77 months on count one of the one-count indictment. This sentence shall run concurrently with any present or future sentence that may have been or may be imposed in case no. 1640158 in the 396th Judicial District Court, Tarrant County, Texas. This sentence shall run consecutively to any future sentences that may be imposed in case no. 1640148 in the 396th Judicial District Court, Tarrant County, Texas; and case no. 1641276 in Tarrant County Criminal Court No. 5, Tarrant County, Texas.

The Court recommends that the defendant be incarcerated at F.M.C. Fort Worth, Texas, or as close to Fort Worth, Texas, as possible. The Court further recommends that the defendant participate in the Institution Residential Drug Abuse Treatment Program, if eligible, and that he receive mental health treatment while incarcerated.

The defendant is remanded to the custody of the United States marshal.

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of 3 years on count one of the one-count indictment.

The defendant, while on supervised release, shall comply with the standard conditions recommended by the U. S. Sentencing Commission at §5D1.3(c) of the United States Sentencing Commission Guidelines Manual, and shall:

not commit another federal, state, or local crime;

not possess illegal controlled substances;

not possess a firearm, destructive device, or other dangerous weapon;

cooperate in the collection of DNA as directed by the probation officer, as authorized by the Justice for All Act of 2004;

report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Federal Bureau of Prisons;

refrain from any unlawful use of a controlled substance. The defendant must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court;

participate in outpatient mental health treatment services as directed by the probation officer until successfully discharged, which services may include prescribed medications by a licensed physician, with the defendant contributing to the costs of services rendered (copayment) at a rate of at least \$25 per month; and

participate in an outpatient program approved by the probation officer for treatment of narcotic or drug or alcohol dependency that will include testing for the detection of substance use, abstaining from the use of alcohol and all other intoxicants during and after completion of treatment, contributing to the costs services rendered (copayment) at the rate of at least \$25 per month.

FINE/RESTITUTION

The Court does not order a fine or costs of incarceration because the defendant does not have the financial resources or future earning capacity to pay a fine or costs of incarceration.

Restitution is not ordered because there is no victim other than society at large.

FORFEITURE

Pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), it is hereby ordered that defendant's interest in the following property is condemned and forfeited to the United States: a SCCY, CPX-2, 9mm pistol bearing serial number 644330, including any ammunition, magazines, and/or accessories recovered with the firearm.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

United States marshal

BY _____
deputy marshal