

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

DAMONI OWENS,

Petitioner

v.

UNITED STATES OF AMERICA

Respondent

APPENDIX

INDEX TO APPENDICES

- Appendix A Judgment and Opinion of Fifth Circuit
United States v. Owens, 850 Fed. Appx. 901 (5th Cir. June 22, 2021).
(unpublished)
- Appendix B Judgment and Sentence of the United States District Court for the
Northern District of Texas
United States v. Owens, D.C. 4:15-CR-00037-Y-1, October 29, 2020.

APPENDIX A

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

June 22, 2021

Lyle W. Cayce
Clerk

No. 20-11108
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DAMONI OWENS,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:15-CR-37-1

Before JOLLY, ELROD, and GRAVES, *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

June 22, 2021

Lyle W. Cayce
Clerk

No. 20-11108
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DAMONI OWENS,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:15-CR-37-1

Before JOLLY, ELROD, and GRAVES, *Circuit Judges.*

PER CURIAM:*

Damoni Owens appeals his guilty plea conviction for being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). Relying on *National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012), Owens argues that § 922(g)(1) is unconstitutional because it exceeds

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.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. 20-11108

Congress's authority under the Commerce Clause. He concedes that this argument is foreclosed by our decision in *United States v. Alcantar*, 733 F.3d 143 (5th Cir. 2013). Citing *Alcantar*, the Government moves for summary affirmance or, in the alternative, for an extension of time in which to file a merits brief.

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." *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969); *see Alcantar*, 733 F.3d at 145-46. Accordingly, the motion for summary affirmance is GRANTED. The Government's alternative motion for an extension of time is DENIED as moot. The judgment is AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
Fort Worth Division

UNITED STATES OF AMERICA

v.

DAMONI OWENS

**AMENDED JUDGMENT IN
A CRIMINAL CASE UPON
REMAND FOR RESENTENCING**

Case Number: 4:15-CR-037-Y(1)
Frank L. Gatto, assistant U. S. attorney
Michael A. Lehmann, attorney for the defendant

On April 8, 2015, the defendant, Damoni Owens, 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)	Felon in Possession of Firearm	August 20, 2014	One


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

On November 5, 2018, the United States Court of Appeals for the Fifth Circuit vacated the sentence imposed on October 13, 2015, and remanded the case for resentencing. On February 28, 2019, the Court resentenced the defendant but the Fifth Circuit also vacated that sentence (110 months) and remanded the case for resentencing. The sentence imposed on page two of this judgment is in response to, and in compliance with, the ruling of the Fifth Circuit on May 26, 2020.

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.

Original sentence imposed October 13, 2015.
Resentenced on October 27, 2020.


TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

Signed October 29, 2020.

IMPRISONMENT

The defendant, Damoni Owens, is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 96 months on count one of the one-count indictment.

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 three years on count one of the one-count indictment.

The defendant, while on supervised release, shall comply with the standard conditions recommended by the United States Sentencing Commission at §5D1.3(c) of the U. S. 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 U.S. Probation Officer, as authorized by the Justice for All Act of 2004;

report in person to the U.S. 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;

participate in 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;

participate in a 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 of services rendered (copayment) at the rate of at least \$25 per month; and

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

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.

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