

United States Court of Appeals for the Fifth Circuit

No. 23-20222
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 20, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

LADARIUS DEAN,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:22-CR-193-1

Before DAVIS, SMITH, and HIGGINSON, *Circuit Judges*.

PER CURIAM:*

Ladarius Dean argues for the first time on appeal that his statute of conviction, 18 U.S.C. § 922(g)(1), is facially unconstitutional under the Second Amendment in light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022). Additionally, Dean raises a new argument that § 922(g)(1) is unconstitutional as applied to him because it exceeds the power

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

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of Congress under the Commerce Clause by permitting a conviction based solely on evidence that the firearm he possessed was manufactured outside of and then imported into Texas and without regard to his involvement in the transportation or economic activity associated with the purchase or sale of the firearm. The Government has filed an unopposed motion for summary affirmance or, alternatively, for an extension of time to file a brief.

The Government is correct that Dean's arguments are foreclosed. *See United States v. Diaz*, 116 F.4th 458, 471-72 (5th Cir. 2024); *United States v. Jones*, 88 F.4th 571, 573 (5th Cir. 2023) (discussing *United States v. Alcantar*, 733 F.3d 143 (5th Cir. 2013)), *cert. denied*, 144 S. Ct. 1081 (2024); *United States v. Rawls*, 85 F.3d 240, 243 (5th Cir. 1996). Therefore, summary affirmance is appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Accordingly, the motion for summary affirmance is GRANTED, the alternative motion for an extension of time is DENIED, and the judgment of the district court is AFFIRMED.