

# United States Court of Appeals for the Fifth Circuit

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No. 24-40629  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

May 27, 2025

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

SPENCER WAYNE BACON,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 2:23-CR-625-1

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Before JONES, DENNIS, and SOUTHWICK, *Circuit Judges.*

PER CURIAM:\*

Spencer Wayne Bacon appeals his 18 U.S.C. § 922(g)(1) conviction. He first argues that § 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). But, as he concedes, that challenge is foreclosed by *United States v. Diaz*, 116 F.4th 458, 471–72 (5th Cir. 2024), *petition for cert. filed*,

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

(U.S. Feb. 24, 2025) (No. 24-6625). Bacon further argues that § 922(g)(1) is unconstitutional as applied to him because the statute violates the Commerce Clause. He acknowledges our precedent forecloses that argument too. *See United States v. Jones*, 88 F.4th 571, 573 (5th Cir. 2023), *cert. denied*, 144 S. Ct. 1081 (2024).

AFFIRMED.