

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

DIONTE DORUN MATLOCK,

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

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/s/ Loui Itoh
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Appendix A Opinion of Fifth Circuit, *United States v. Matlock*, No. 24-10579, 2025 WL 801356 (5th Cir. Mar. 13, 2025) (unpublished)

Appendix B Judgment and Sentence of the United States District Court for the Northern District of Texas, entered June 26, 2024.
United States v. Matlock, Dist. Court No. 3:23-cr-359-K-1

APPENDIX A

United States Court of Appeals for the Fifth Circuit

No. 24-10579
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 13, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DIONTE DORUN MATLOCK,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:23-CR-359-1

Before GRAVES, WILLETT, and WILSON, *Circuit Judges*.

PER CURIAM:*

Dionte Dorun Matlock was convicted under 18 U.S.C. § 922(g)(1) for possessing a firearm as a convicted felon. On appeal, he asserts that the felon-in-possession statute is unconstitutional because (1) it facially violates the Second Amendment based on the Supreme Court's decision in *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. 1 (2022), and (2) it exceeds

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

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Congress’s power to regulate under the Commerce Clause, U.S. CONST. art. I, § 8, cl. 3. The Government has filed an unopposed motion for summary affirmance, or alternatively, for an extension of time in which to file a brief. The motion for summary affirmance is GRANTED, the alternative motion for an extension of time is DENIED as moot, and the judgment of the district court is AFFIRMED.

I

Matlock first argues that § 922(g)(1) violates the Second Amendment on its face because the statute does not comply with the plain text of the Second Amendment, and because the Government has failed to identify a historical analogue of firearm regulation—pursuant to *Bruen*—that is consistent with § 922(g)(1).

As both Matlock and the Government recognize, Matlock’s facial challenge is “now clearly foreclosed by” *United States v. Diaz*, 116 F.4th 458 (5th Cir. 2024). *United States v. Collette*, No. 22-51062, 2024 WL 4457462, at *2 (5th Cir. Oct. 10, 2024). There, we denied an as-applied challenge to § 922(g)(1) and found the statute was “constitutional as applied to the facts.” *Diaz*, 116 at 472. And “[b]ecause the challenger must establish that no set of circumstances exists under which the statute would be valid to prevail on a facial challenge, *Diaz*’s conclusion that the statute was constitutional in [that] set of circumstances prevents a facial challenge here.” *United States v. Anderson*, No. 24-30287, 2024 WL 5075073, at *2 (5th Cir. Dec. 11, 2024) (quotation marks omitted) (first citing *Diaz*, 116 F.4th at 471; then citing *United States v. Salerno*, 481 U.S. 739, 745 (1987)).

Moreover, Matlock’s arguments—whatever their merit—are also foreclosed by our rule of orderliness, which prohibits a later panel from overturning another panel’s decision *unless* it has “fallen unequivocally out of step with some intervening change in the law.” *See In re Bonvillian Marine*

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Servs. Inc., 19 F.4th 787, 792 (5th Cir. 2021); *see also Jacobs v. Nat’l Drug Intelligence Ctr.*, 548 F.3d 375, 378 (5th Cir. 2008) (“It is a well-settled Fifth Circuit rule of orderliness that one panel of our court may not overturn another panel’s decision, absent an intervening change in the law, such as by a statutory amendment, or the Supreme Court, or our *en banc* court.”). Here, there has been no intervening change in the law, so *Diaz* controls.

II

Matlock next contends that § 922(g)(1) is unconstitutional because the provision exceeds Congress’s power to regulate under the Commerce Clause. But like his Second Amendment challenge, precedent forecloses Matlock’s Commerce Clause argument—and Matlock recognizes as much.

Matlock argues the Supreme Court’s minimal-nexus test in *Scarborough v. United States*, 431 U.S. 563, 575 (1977)—which requires a firearm to only have a “minimal nexus” with interstate commerce to fall under Congress’s Commerce Clause authority—cannot be reconciled with *United States v. Lopez*, 514 U.S. 549 (1995), which requires that regulated activity substantially affects interstate commerce. Matlock further argues that even if the *Scarborough* minimal-nexus test remains good law after *Lopez*, § 922(g)(1) still exceeds Congress’s authority under the Commerce Clause because “[t]he Commerce Clause is not a general license to regulate an individual from cradle to grave” and that “any police power to regulate individuals as such . . . remains vested in the States.” *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 557 (2012).

However, we have “consistently upheld the constitutionality of § 922(g)(1), even after” *Lopez*. *United States v. Jones*, 88 F.4th 571, 573 (5th Cir. 2023) (internal quotation marks and citation omitted) (finding Commerce Clause challenge was foreclosed), *cert. denied*, 144 S. Ct. 1081 (2024); *see, e.g., United States v. Alcantar*, 733 F.3d 143, 145 (5th Cir. 2013)

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(similar). And as we have recognized, subsequent Supreme Court caselaw has not addressed “the constitutionality of § 922(g)(1),” nor has it expressed “an intention to overrule the precedents upon which our cases—and numerous other cases in other circuits—relied in finding statutes such as § 922(g)(1) constitutional.” *Alcantar*, 733 F.3d at 146. Accordingly, both Supreme Court and circuit precedent foreclose Matlock’s Commerce Clause challenge.

III

Because both of Matlock’s challenges to § 922(g)(1) are foreclosed, summary affirmance is appropriate. *See Groendyke Transp. Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). We GRANT the motion for summary affirmance, DENY as moot the alternative motion for an extension of time, and AFFIRM the judgment of the district court.

APPENDIX B

United States District Court

Northern District of Texas Dallas Division

UNITED STATES OF AMERICA

v.

DIONTE DORUN MATLOCK§ **JUDGMENT IN A CRIMINAL CASE**

§

§

§ Case Number: **3:23-CR-00359-K(1)**§ USM Number: **81072-510**§ **Marti Rachel Morgan**

§ Defendant's Attorney

THE DEFENDANT:

<input type="checkbox"/>	pleaded guilty to count(s)	
<input checked="" type="checkbox"/>	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	The One Count Indictment, filed on September 6, 2023.
<input type="checkbox"/>	pleaded nolo contendere to count(s) which was accepted by the court	
<input type="checkbox"/>	was found guilty on count(s) after a plea of not guilty	

The defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense**Offense Ended****Count****18 U.S.C. §§ 922(g)(1) and 924(a)(8) Possession of a Firearm by a Convicted Felon****04/16/2023****1**

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s)
- ☐ Count(s) ☐ is ☐ are dismissed on the motion of the United States

It is ordered that the defendant must notify the United States attorney for this district within 30 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. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

June 26, 2024

Date of Imposition of Judgment



Signature of Judge

Ed Kinkeade, United States District Judge

Name and Title of Judge

June 26, 2024

Date

DEFENDANT: DIONTE DORUN MATLOCK
CASE NUMBER: 3:23-CR-00359-K(1)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

EIGHTEEN (18) Months. This sentence shall run concurrently to any future sentence which may be imposed in the pending state cases of Aggravated Assault Motor Vehicle Discharge Firearm filed under Case Nos. F-1760523, and F-1760524, filed in the Dallas County Criminal District Court No. 7, Dallas, Texas. Additionally, the sentence shall run concurrently to any future sentence the pending cases involving Unlawful Possession of Firearm by Felon, Case No. F-2353948 and Evading Arrest Detention w/ Previous Conviction, Case No. F-2353947 filed in the Dallas County Criminal District Court No. 7, Dallas, Texas.

The Defendant shall receive credit for time served from October 4, 2023.

- ☒ The court makes the following recommendations to the Bureau of Prisons:
The Court recommends that the Defendant be allowed to serve his sentence at FCI Seagoville, Seagoville, Texas. Further, the Court recommends that the Defendant be allowed to Participate in the Residential Drug Abuse Program, if eligible.
- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:
☐ at ☐ a.m. ☐ p.m. on
☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
☐ before 2 p.m. on
☐ as notified by the United States Marshal.
☐ as notified by the Probation or Pretrial Services Office.

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 UNITED STATES MARSHAL

DEFENDANT: DIONTE DORUN MATLOCK
CASE NUMBER: 3:23-CR-00359-K(1)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **TWO (2) years.**

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You 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.
☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

DEFENDANT: DIONTE DORUN MATLOCK
CASE NUMBER: 3:23-CR-00359-K(1)

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at www.txnp.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: DIONTE DORUN MATLOCK
CASE NUMBER: 3:23-CR-00359-K(1)

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall participate in an outpatient program approved by the probation officer for treatment of narcotic, drug, or alcohol dependency that will include testing for the detection of substance use, abstaining from the use of alcohol and all other intoxicant during and after completion of treatment, and contributing to the costs of services rendered (copayment) at the rate of at least \$20 per month.

The defendant shall participate in outpatient mental health treatment services as directed by the probation officer until successfully discharged. These services may include medications prescribed by a licensed physician. You shall contribute to the costs of services rendered (copayment) at a rate of at least \$20 per month.

The defendant shall obtain his GED while on Supervised Release.

DEFENDANT: DIONTE DORUN MATLOCK
CASE NUMBER: 3:23-CR-00359-K(1)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments page.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$100.00	\$.00	\$.00	\$.00	\$.00

- ☐ The determination of restitution is deferred until *An Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

- ☐ Restitution amount ordered pursuant to plea agreement \$
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- | | | |
|---|-------------------------------|--|
| <input type="checkbox"/> the interest requirement is waived for the | <input type="checkbox"/> fine | <input type="checkbox"/> restitution |
| <input type="checkbox"/> the interest requirement for the | <input type="checkbox"/> fine | <input type="checkbox"/> restitution is modified as follows: |

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT:

DIONTE DORUN MATLOCK

CASE NUMBER:

3:23-CR-00359-K(1)

SCHEDULE OF PAYMENTS

Having assessed the defendant’s ability to pay, payment of the total criminal monetary penalties is due as follows:

- A

☐ Lump sum payments of \$ _____ due immediately, balance due
☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B

☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C

☐ Payment in equal _____ (*e.g., weekly, monthly, quarterly*) installments of \$ _____ over a period of _____ (*e.g., months or years*), to commence _____ (*e.g., 30 or 60 days*) after the date of this judgment; or
- D

☐ Payment in equal 20 (*e.g., weekly, monthly, quarterly*) installments of \$ _____ over a period of _____ (*e.g., months or years*), to commence _____ (*e.g., 30 or 60 days*) after release from imprisonment to a term of supervision; or
- E

☐ Payment during the term of supervised release will commence within _____ (*e.g., 30 or 60 days*) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant’s ability to pay at that time; or
- F

☒ Special instructions regarding the payment of criminal monetary penalties:
It is ordered that the Defendant shall pay to the United States a special assessment of \$100.00 for Count 1, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons’ Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several
 See above for Defendant and Co-Defendant Names and Case Numbers (*including defendant number*), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant’s interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTa assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.