

# United States Court of Appeals for the Fifth Circuit

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No. 24-50363  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

April 21, 2025

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

JOSE ANTONIO HERNANDEZ,

*Defendant—Appellant,*

CONSOLIDATED WITH

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No. 24-50380

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

JOSE HERNANDEZ,

*Defendant—Appellant.*

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Appeals from the United States District Court  
for the Western District of Texas  
USDC Nos. 7:23-CR-210-1,  
7:20-CR-309-1

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Before HIGGINBOTHAM, JONES, and OLDHAM, *Circuit Judges*.

PER CURIAM: \*

Jose Antonio Hernandez argues that his statute of conviction, 18 U.S.C. § 922(g)(1), violates the Second Amendment on its face and as applied to him in light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022). In addition, he contends that § 922(g)(1) violates the Commerce Clause. He has abandoned, by failing to brief, any argument regarding the consolidated appeal from his supervised release revocation proceeding. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993).

Hernandez correctly concedes that his facial Second Amendment challenge is foreclosed. *See United States v. Contreras*, 125 F.4th 725, 729 (5th Cir. 2025). Also, because Hernandez was serving a term of supervised release when he violated § 922(g)(1), the statute does not violate the Second Amendment as applied to him. *See United States v. Giglio*, 126 F.4th 1039, 1043-46 (5th Cir. 2025). Finally, as Hernandez correctly acknowledges, his Commerce Clause challenge is foreclosed. *See United States v. Diaz*, 116 F.4th 458, 462 (5th Cir. 2024).

AFFIRMED.

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