

No. 17-_____

IN THE SUPREME COURT OF THE UNITED STATES

Lindsey Ewing,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

APPENDIX

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Court for the Northern District of Texas

APPENDIX A

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-10099
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
September 21, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

LINDSEY EWING,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:16-CR-56-1

Before DAVIS, CLEMENT, and COSTA, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Lindsey Ewing raises arguments that are foreclosed by *United States v. Alcantar*, 733 F.3d 143, 145-46 (5th Cir. 2013), and *United States v. Trejo*, 610 F.3d 308, 312-13 (5th Cir. 2010). In *Alcantar*, we rejected the argument that *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 132 S. Ct. 2566 (2012), affected our prior jurisprudence rejecting challenges to the constitutionality of 18 U.S.C. § 922(g)(1). *Alcantar*, 733 F.3d

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

at 146. In *Trejo*, we applied the plain error standard to a factual sufficiency claim that was raised for the first time in this court. *Trejo*, 610 F.3d at 313. Accordingly, the Government's motion for summary affirmance is GRANTED, its alternative motion for extension of time is DENIED, and the judgment is AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF TEXAS

Fort Worth Division

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

Case Number: 4:16-CR-00056-Y(1)

Frank L. Gatto, assistant U.S. attorney

LINDSEY EWING

Erin Leigh Brennan, attorney for the defendant

On September 14, 2016, the defendant, Lindsey Ewing, 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) and 924(a)(2)	Felon in Possession of a Firearm	January 13, 2016	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.

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.

Sentence imposed January 24, 2017.



TERRY R. MEANS

UNITED STATES DISTRICT JUDGE

Signed January 24, 2017.

Defendant: Lindsey Ewing

Case Number: 4:16-CR-00056-Y(1)

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IMPRISONMENT

The defendant, Lindsey Ewing, is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 33 months on count one of the one-count indictment. The sentence shall run consecutively to any sentence that may be imposed in the 297th Judicial District Court, Tarrant County, Texas, case nos. 1444307D and 1443541D and concurrently with any sentence that may be imposed in the 297th Judicial District Court, Tarrant County, Texas, in case no. 1444366D.

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.

While on supervised release, in compliance with the standard conditions of supervision adopted by the United States Sentencing Commission, the defendant shall:

- (1) not leave the judicial district without the permission of the Court or probation officer;
- (2) report to the probation officer in a manner and frequency directed by the Court or probation officer;
- (3) answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- (4) support the defendant's dependents and meet other family responsibilities;
- (5) work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- (6) notify the probation officer within seventy-two (72) hours of any change in residence or employment;
- (7) refrain from excessive use of alcohol and not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- (8) not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- (9) not associate with any persons engaged in criminal activity and not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- (10) permit a probation officer to visit the defendant at any time at home or elsewhere and permit confiscation of any contraband observed in plain view by the probation officer;
- (11) notify the probation officer within seventy-two (72) hours of being arrested or questioned by a law enforcement officer;
- (12) not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the Court; and
- (13) notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement, as directed by the probation officer.

In addition the defendant shall:

not commit another federal, state, or local crime;

not possess illegal controlled substances;

not possess a firearm, destructive device, or other dangerous weapon;

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cooperate in the collection of DNA as directed by the probation officer;

report in person to the 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 shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

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