

APPENDICES

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FILED: May 15, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-4280
(3:23-cr-00039-REP-1)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SHALIK RASHEEM MITCHELL, a/k/a Shalik Resheem Mitchell, a/k/a
Shalik Reshan Mitchell, a/k/a Leek Mitchell, a/k/a Shalik Jones, a/k/a Shalik
Resheen Mitchell,

Defendant - Appellant.

O R D E R

Shalik Mitchell appeals his conviction for possession of a firearm by a felon, in violation of 18 U.S.C. § 922(g)(1). He argues that § 922(g)(1) is facially unconstitutional and unconstitutional as applied to him following *New York State Rifle & Pistol Ass’n v. Bruen*, in which the Supreme Court held that a firearm regulation is valid under the Second Amendment only if it “is consistent with this Nation’s historical tradition of firearm regulation.” 597 U.S. 1, 17 (2022). The Government moves for summary affirmance in light of our recent decisions in

United States v. Canada, in which we considered and rejected the same argument, holding that “Section 922(g)(1) is facially constitutional because it has a plainly legitimate sweep and may constitutionally be applied in at least some set of circumstances,” 123 F.4th 159, 161 (4th Cir. 2024) (internal quotation marks omitted), and *United States v. Hunt*, where we affirmed “the Supreme Court’s repeated instruction that longstanding prohibitions ‘on the possession of firearms by felons . . . are presumptively lawful,’” 123 F.4th 697, 708 (4th Cir. 2024) (citing *United States v. Rahimi*, 602 U.S. 680, 699 (2024)), *petition for cert. filed*, No. 24-6818 (U.S. Mar. 20, 2025). The Government contends that Mitchell’s arguments on appeal are foreclosed by *Canada* and *Hunt*, and thus, are “manifestly unsubstantial.” See 4th Cir. R. 27(f)(1). Mitchell concedes that his arguments are foreclosed but nevertheless opposes summary affirmance.

Because the only issues raised in Mitchell’s appeal are foreclosed by our decisions in *Canada* and *Hunt*, we conclude that summary affirmance is warranted. Accordingly, we grant the Government’s motion for summary affirmance.

Entered at the direction of the panel: Judge Niemeyer, Judge Heytens, and Senior Judge Keenan.

For the Court

/s/ Nwamaka Anowi, Clerk

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UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-4280
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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

SHALIK RASHEEM MITCHELL, a/k/a Shalik Resheem Mitchell, a/k/a Shalik Reshan Mitchell, a/k/a Leek Mitchell, a/k/a Shalik Jones, a/k/a Shalik Resheen Mitchell

Defendant - Appellant

J U D G M E N T

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ NWAMAKA ANOWI, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

UNITED STATES OF AMERICA

v.

Criminal No. 3:23-cr-39

SHALIK RASHEEM MITCHELL,

Defendant.

ORDER

For the reasons set forth on the record during the hearing on September 6, 2023, and by incorporation of the reasoning from the MEMORANDUM OPINION in United States v. Dai'quan Jarrvel Lane, No. 3:23-cr-62 (E.D. Va. Aug. 31, 2023) (ECF No. 38),¹ it is hereby ORDERED that MR. MITCHELL'S MOTION TO DISMISS THE INDICTMENT (ECF No. 35) is denied.

It is so ORDERED.

/s/ RSP
Robert E. Payne
Senior United States District Judge

Richmond, Virginia
Date: September 7, 2023

¹ The Court incorporated and adopted the Memorandum Opinion in Lane that pertained to the § 922(g) charge described therein except that part of Lane which described as dicta the text of District of Columbia v. Heller, 554 U.S. 570 (2008), respecting "longstanding prohibitions on the possession of firearms by felons" and whether they were "presumptively lawful regulatory measures." Lane, ECF No. 38, at 7-9.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

UNITED STATES OF AMERICA

v.

Criminal No. 3:23cr39

SHALIK RASHEEM MITCHELL

MEMORANDUM ORDER

By ORDER (ECF No. 50), the Court denied MR. MITCHELL'S MOTION TO DISMISS THE INDICTMENT (ECF No. 35), *inter alia*, by adopting and incorporating most of the reasoning set forth in the MEMORANDUM OPINION issued by Judge Young in United States v. Dai'quan Jarrvel Lane, Criminal No. 3:23cr62 (Lane, ECF No. 38). Thereafter, Judge Novak, in United States v. Coleman, Criminal No. 3:22cr87 (E.D. Va. Oct. 12, 2023) ("Coleman") issued a MEMORANDUM OPINION (Coleman, ECF No. 22) which, like Lane, resolved a constitutional challenge to 18 U.S.C. § 922(g)(1) which prohibits felons from possessing either firearms or ammunition.

Lane and Coleman differ in deciding whether felons fall within the reach of the term "the people" for purposes of applying the decision of the Supreme Court of the United States in N.Y. State Rifle & Pistol Ass'n v. Bruen, 142 S. Ct. 211 (2022). Compare Lane (Lane, ECF No. 38, pp. 19-33) with Coleman (Coleman, ECF No. 22, pp. 10-23).

Having considered the analyses of "the people" issue in both Lane and Coleman, the Court incorporates and adopts in this case, as an alternative to Lane's holding on "the people" issue and the analysis that ensues that holding in Lane, the decision of Coleman on "the people" issue and the analysis that ensues that decision in Coleman.

Accordingly, this MEMORANDUM ORDER shall serve as an amendment to the ORDER (ECF No. 50) entered in this case on September 7, 2023.

It is so ORDERED.

_____/s/ REP
Robert E. Payne
Senior United States District Judge

Richmond, Virginia
Date: December 8, 2023