

APPENDICES

Appendix A: Order of the court of appeals

United States v. Kearney, No. 24-4370, ECF Doc. 35 (4th Cir. May 22, 2025)..... 1a

Appendix B: Judgment of the court of appeals

United States v. Kearney, No. 24-4370, ECF Doc. 36 (4th Cir. May 22, 2025)..... 4a

Appendix C: Order of the district court

United States v. Kearney, No. 1:24-cr-00004-PTG, ECF Doc. 34 (E.D. Va. Feb. 28, 2024) 5a

FILED: May 22, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-4370
(1:24-cr-00004-PTG-1)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KIYEL TYQUELLO KEARNEY, a/k/a KhiGlock, a/k/a Glock,

Defendant - Appellant.

O R D E R

Kiyel Tyquello Kearney pleaded guilty, pursuant to a conditional plea agreement, to possession of ammunition by a convicted felon, in violation of 18 U.S.C. § 922(g)(1). The district court sentenced Kearney to 18 months' imprisonment. Kearney now appeals, and consistent with his conditional plea agreement, challenges the district court's denial of his motion to dismiss the indictment. In the motion to dismiss, Kearney asserted that § 922(g)(1) is both facially unconstitutional and unconstitutional as applied to him under the Second

Amendment, and he relied on the Supreme Court’s decision in *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022). Kearney pursues the same arguments on appeal.

The Government moves for summary affirmance based on our recent decisions in *United States v. Canada*, 123 F.4th 159, 160-61 (4th Cir. 2024), which rejected a facial Second Amendment challenge to § 922(g)(1), and *United States v. Hunt*, 123 F.4th 697, 700 (4th Cir. 2024), *petition for cert. filed*, No. 24-6818 (U.S. Mar. 20, 2025), which held that as-applied Second Amendment challenges to § 922(g)(1) are generally not viable.* The Government contends that the only issues Kearney presents on appeal are “manifestly unsubstantial” after *Canada* and *Hunt*. See 4th Cir. R. 27(f)(1). Although Kearney concedes that *Canada* and *Hunt* defeat his Second Amendment arguments, he nevertheless opposes summary affirmance.

Because *Canada* and *Hunt* foreclose the only issues that Kearney pursues on appeal, we conclude that summary affirmance is proper. We thus grant the Government’s motion for summary affirmance.

* In *Hunt*, the Court reaffirmed “that a person who has been convicted of a felony cannot make out a successful as-applied challenge to [§] 922(g)(1) unless the felony conviction is pardoned or the law defining the crime of conviction is found unconstitutional or otherwise unlawful.” 123 F.4th at 700 (internal quotation marks omitted). Kearney does not argue that either circumstance is present here.

Entered at the direction of the panel: Judge King, Judge Agee, and Judge Wynn.

For the Court

/s/ Nwamaka Anowi, Clerk

FILED: May 22, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-4370
(1:24-cr-00004-PTG-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

KIYEL TYQUELLO KEARNEY, a/k/a KhiGlock, a/k/a Glock

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
Alexandria Division**

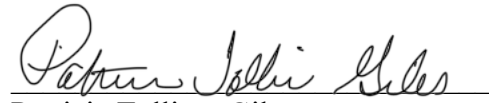
UNITED STATES OF AMERICA)	
)	
v.)	Criminal Action No. 1:24-cr-4
)	
KIYEL TYQUELLO KEARNEY,)	
a/k/a “KhiGlock,”)	
a/k/a “Glock,”)	
)	
Defendant.)	

ORDER

This matter comes before the Court on Defendant Kiyel Tyquello Kearney’s Motion to Dismiss the Indictment (“Motion”). Dkt. 28. The Government opposed the Motion, Dkt. 29, and Defendant filed a Reply, Dkt. 32. On February 28, 2024, the Court held oral argument on the Motion. Dkt. 33. For the reasons stated from the bench, it is hereby

ORDERED that Defendant’s Motion to Dismiss the Indictment (Dkt. 28) is **DENIED**.

Entered this 28th day of February, 2024.
Alexandria, Virginia



Patricia Tolliver Giles
United States District Judge