

APPENDICES

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United States v. Royal, No. 3:24-cr-00015-RCY, ECF Doc. 31 (E.D. Va.
Apr. 18, 2024) 8a

FILED: June 17, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-4524
(3:24-cr-00015-RCY-1)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DEVONTAE LAMONT ROYAL,

Defendant - Appellant.

O R D E R

Devontae Lamont Royal pleaded guilty, pursuant to a conditional plea agreement, to possession of firearm ammunition by a convicted felon, in violation of 18 U.S.C. § 922(g)(1). The district court sentenced Royal to 24 months' imprisonment. Royal 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, Royal 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). Royal 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), *cert. denied sub nom. Hunt v. United States*, No. 24-6818, [2025 WL 1549804](#) (U.S. June 2, 2025), which held that as-applied Second Amendment challenges to § 922(g)(1) are generally not viable.* The Government contends that the only issues Royal presents on appeal are “manifestly unsubstantial” after *Canada* and *Hunt*. See [4th Cir. R. 27\(f\)\(1\)](#). Although Royal concedes that *Canada* and *Hunt* defeat his Second Amendment arguments, he nevertheless opposes summary affirmance.

Because *Canada* and *Hunt* foreclose the only issues that Royal 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). Royal does not argue that either circumstance is present here.

Entered at the direction of the panel: Judge Gregory, Judge Quattlebaum,
and Judge Berner.

For the Court

/s/ Nwamaka Anowi, Clerk

FILED: June 17, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-4524
(3:24-cr-00015-RCY-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

DEVONTAE LAMONT ROYAL

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 Case No. 3:24CR15 (RCY)
)	
DEVONTAE LAMONT ROYAL,)	
Defendant.)	
_____)	

MEMORANDUM OPINION

This matter is before the Court on Defendant Devontae Lamont Royal’s (“Mr. Royal,” or “the Defendant”) Motion to Dismiss the Indictment. ECF No. 24. The Defendant seeks dismissal of the indictment charging him with Possession of Firearm Ammunition by a Convicted Felon, in violation of 18 U.S.C. § 922(g)(1), based on the Supreme Court’s decision in *N.Y. State Rifle & Pistol Association v. Bruen*, 597 U.S. 1, 142 S. Ct. 2111 (2022). *See* Mot. Dismiss Indictment (“Mot. Dismiss”) 1–2, 6–17. The Defendant brings both facial and as-applied challenges to § 922(g)(1). For the reasons stated below, the Court will deny the Defendant’s motion in full.

I. BACKGROUND

Mr. Royal was indicted on February 6, 2024, on one count of Possession of Firearm Ammunition by a Convicted Felon pursuant to 18 U.S.C. § 922(g)(1). Indictment 1, ECF No. 15. Mr. Royal was arraigned on February 13, 2024. ECF No. 19. Mr. Royal’s status as a convicted felon is not in dispute.

II. LEGAL STANDARD

Federal Rule of Criminal Procedure 12 allows parties to “raise by pretrial motion any defense, objection, or request that the court can determine without a trial on the merits.” Fed. R. Crim. P. 12(b)(1). The Defendant here requests that the Court dismiss the indictment against him. “An indictment may be dismissed if the statute on which the indictment is premised is

unconstitutional.” *United States v. Kearney*, 2023 WL 3940106, at *1 (E.D. Va. June 9, 2023); see *United States v. Brown*, 715 F. Supp. 2d 688, 689 (E.D. Va. 2010); cf. Fed. R. Crim. P. 12(b)(3)(B) (permitting a defendant to, before trial, file a motion alleging a “defect in the indictment”).

III. DISCUSSION

The Defendant argues that the statute upon which his indictment is premised, 18 U.S.C. § 922(g)(1), is unconstitutional on its face and as applied to him because it violates the Second Amendment under *Bruen*’s new text-and-history test.

Section 922(g)(1) reads, in relevant part:

It shall be unlawful for any person . . . who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year . . . [to] possess in or affecting commerce, any firearm or ammunition.

18 U.S.C. § 922(g)(1).

The Defendant argues that *Bruen* “upended Second Amendment doctrine” with its text-and-history test. Mot. Dismiss 1. He argues that “§ 922(g)(1) regulates conduct the Second Amendment protects,” meaning that § 922(g)(1) is “presumptively unconstitutional under *Bruen*’s plain text standard” and that, as a result, the burden shifts to the government to “show[] that § 922(g)(1) is ‘consistent with the Nation’s historical tradition of firearm regulation.’” *Id.* at 11, 16 (quoting *Bruen*, 142 S. Ct. at 2130); see also *id.* at 6–11.

This Court has already carefully considered and denied each of the arguments set forth in this Motion to Dismiss. See *United States v. Lane*, --- F. Supp. 3d ---, 2023 WL 5663084 (E.D. Va. Aug. 31, 2023).¹ Other courts in this district have persuasively done the same, with similar


¹ In *Lane*, this Court held that the Fourth Circuit’s pre-*Bruen* precedents upholding § 922(g)(1)’s constitutionality remain good law and require rejection of any argument that an indictment pursuant to § 922(g)(1) violates the Second Amendment. See *Lane*, 2023 WL 5663084, at *1, 4–7. Alternatively, this Court held that *Bruen* reaffirmed the Supreme Court’s instruction that “the people” whose conduct the Second Amendment protects includes only “law-abiding citizens” and not felons like the Defendant here. See *id.* at *8–13.

outcomes. *See, e.g., United States v. Riley*, 635 F. Supp. 3d 411 (E.D. Va. 2022); *United States v. Finney*, 2023 WL 2696203 (E.D. Va. Mar. 29, 2023). The briefing in the present case provides no new legal arguments and therefore no reason for this Court to deviate from its prior analysis; as such, the Court adopts in full the reasoning previously set forth in its Memorandum Opinion in *United States v. Lane*.²

IV. CONCLUSION

For the reasons detailed above, the Defendant's Motion to Dismiss the Indictment, ECF No. 24, will be denied.

An appropriate Order shall issue.



/s/ Roderick C. Young
United States District Judge

Richmond, Virginia
Date: April 18, 2024

² The Defendant here argues that § 922(g)(1) is unconstitutional both facially and as applied to him. But, as in *Lane*, the Defendant makes the same argument for both his facial and his as-applied challenges: § 922(g)(1) facially criminalizes possessing a firearm or ammunition as a felon, and the statute applies to the Defendant because he was a felon possessing a gun or ammunition. Because the Defendant argues both challenges in the same way (and does so by making the same arguments that the defendant made in *Lane*), the Court here can dispose of both challenges by relying on *Lane*'s single and complete *Bruen* analysis. *See Lane*, 2023 WL 5663084, at *4–13.

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

UNITED STATES OF AMERICA)	
)	
v.)	Criminal Case No. 3:24CR15 (RCY)
)	
DEVONTAE LAMONT ROYAL,)	
Defendant.)	
_____)	


ORDER

This matter is before the Court on the Defendant's Motion to Dismiss the Indictment (ECF No. 24). For the reasons stated in the accompanying Memorandum Opinion, the Defendant's Motion to Dismiss the Indictment (ECF No. 24) is DENIED.

Further, based on the Defendant's representations in his briefing, it appears that a contingent plea is likely to follow this Court's denial of his Motion to Dismiss the Indictment. Accordingly, the parties are DIRECTED to contact the undersigned's courtroom deputy, Julie Jones, within seven (7) days of the entry of this Order to schedule either a plea hearing or jury trial.

The Clerk is directed to provide a copy of this Order to all counsel of record.

It is so ORDERED.



Roderick C. Young
United States District Judge

Richmond, Virginia
Date: April 18, 2024