

APPENDICES

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FILED: June 17, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-4508
(1:24-cr-00071-MSN-1)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTONIO DEANTE TOWN,

Defendant - Appellant.

O R D E R

Antonio Deante Town pled guilty, pursuant to a written plea agreement, to possession of a firearm as a felon, in violation of [18 U.S.C. § 922\(g\)\(1\)](#). The district court sentenced Town to three years of probation. On appeal, Town argues that § 922(g)(1) is both facially unconstitutional and unconstitutional as applied to him under the Second Amendment, relying on the Supreme Court's decision in *New York State Rifle & Pistol Ass'n v. Bruen*, [597 U.S. 1](#) (2022).

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 Town presents on appeal are “manifestly unsubstantial” after *Canada* and *Hunt*. See [4th Cir. R. 27\(f\)\(1\)](#). Although Town concedes that *Canada* and *Hunt* defeat his Second Amendment arguments, he nevertheless opposes summary affirmance.

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

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

For the Court

/s/ Nwamaka Anowi, Clerk

* In *Hunt*, the Court reaffirmed “that a person who has been convicted of a felony cannot make out a successful as-applied challenge to Section 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). Finney does not argue that either circumstance is present here.

FILED: June 17, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-4508
(1:24-cr-00071-MSN-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ANTONIO DEANTE TOWN

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

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA, : Criminal Action
: No. 1:24-cr-00071-MSN-1
v. :
:
ANTONIO DEANTE TOWN, : May 30, 2024
: 10:32 a.m. - 10:53 a.m.
Defendant. :
:
..... :

TRANSCRIPT OF MOTION AND CHANGE OF PLEA PROCEEDINGS
BEFORE THE HONORABLE MICHAEL S. NACHMANOFF,
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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Official Court Reporter

~~Proceedings~~

1 THE COURTROOM DEPUTY: Criminal case 24-71, *United*
2 *States of America v. Antonio Deante Town*. Will counsel please
3 note their appearances for the record.

4 MR. CARTER: Good morning, Your Honor. Chris Carter
5 again for the United States.

6 THE COURT: Good morning.

7 MS. ROBERTS: Good morning, Your Honor. Valencia
8 Roberts, Office of the Federal Public Defender, on behalf of
9 and present with Mr. Town.

10 THE COURT: Good morning, Ms. Roberts. Good morning,
11 Mr. Town.

12 This matter comes before the Court on Defendant's
13 motion to dismiss Count One pursuant to the Second Amendment,
14 and the matter has been fully briefed. I don't think I need to
15 hear extensive argument on this. This is a significant issue
16 and it's an issue that's been litigated before now hundreds of
17 courts throughout the country and in this district in light of
18 *Bruen* and whether or not 922(g)(1) remains enforceable by the
19 government and constitutional and the challenge that's brought
20 by the defendant in this case as has been brought in many other
21 cases as both an as-applied and a facial challenge.

22 In this case, Mr. Town is a convicted felon. He has a
23 prior conviction for attempted grand larceny and conspiracy to
24 commit burglary from 2013. The charge against him in the
25 Indictment charges that he was in possession of a firearm after

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1 a traffic stop at the Pentagon.

2 So I'll hear very briefly some argument, but I don't
3 think we need to have an extended discussion given the
4 voluminous information in the record having read many of the
5 cases from other judges in this district and around the
6 country.

7 MS. ROBERTS: Your Honor, unless the Court has any
8 specific questions, I'm prepared to submit on the papers.

9 THE COURT: All right.

10 MR. CARTER: The United States is in the same
11 position; we'll submit on the papers.

12 THE COURT: All right. Well, I will say the Court
13 finds this topic fascinating and difficult. This is a
14 troubling case. I am not going to break with my colleagues,
15 and I will deny the motion. A number of my colleagues,
16 although they are not binding on me, have written extensively
17 on the issue, and I will, for the record, say that I find the
18 *Fowler* case particularly persuasive which, in turn, cites both
19 *Riley* and *Lane*, district court cases from the Eastern District
20 of Virginia.

21 Ultimately, the Supreme Court and the Fourth Circuit
22 will make a determination which will be binding in clear terms
23 on all of the district courts. In the interim, I will not
24 break with Fourth Circuit precedent; and even if *Fowler*, *Riley*,
25 and *Lane* are not correct, I do find that *Coleman*, decided by

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1 Judge Novak, also teaches that 922 remains viable and
2 constitutional based on the historical tradition of disarming
3 felons, which is set out at great length in his opinion as well
4 as in the other opinions that I've mentioned.

5 I would note that this uncertainty created is a result
6 of, as Judge Brinkema has quoted, the unprecedented and
7 singularly impractical standard that's been set out in *Bruen*;
8 nonetheless, the courts are required to apply the law as best
9 they can with the guidance that we're given from the binding
10 authorities of the Supreme Court and the Fourth Circuit, and,
11 as I think everyone knows, there are pending cases that might
12 provide further guidance, but I am constrained by the precedent
13 set by the Fourth Circuit and the Supreme Court at this time
14 and will, accordingly, deny the motion.

15 I understand that in anticipation of this ruling, the
16 parties have prepared plea documents with a conditional plea
17 permitting Mr. Town to preserve this issue, and I'm prepared to
18 accept the plea at this time under those terms if the parties
19 are ready to proceed.

20 MS. ROBERTS: We're prepared to proceed, Your Honor.

21 MR. CARTER: That's correct, Your Honor. Thank you.

22 THE COURT: Mr. Town, I understand you wish to enter a
23 plea of guilty at this time?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: I will have you sworn.

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA

v.

ANTONIO DEANTE TOWN,
Defendant.

Case Number 1:24-cr-71

ORDER

This matter came before the Court on Defendant's Motion to Dismiss Count One Pursuant to the Second Amendment of the Constitution of the United States (ECF 18). The government filed an opposition (ECF 22) and the defendant filed a reply (Dkt 23). The Court heard oral argument on Thursday, May 30, 2024. Having considered the pleadings and the arguments of counsel, for the reasons stated from the bench, it is hereby

ORDERED that Defendant's motion (ECF 18) is DENIED.

/s/

Michael S. Nachmanoff
United States District Judge

May 30, 2024
Alexandria, Virginia