

APPENDIX

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2025 WL 1898366

Only the Westlaw citation is currently available.
United States Court of Appeals, Fifth Circuit.

UNITED STATES of
America, Plaintiff—Appellee,
v.
Christopher Deonta HEMPHILL,
Defendant—Appellant.

No. 24-50527

FILED July 9, 2025

Appeal from the United States District Court for the Western
District of Texas, USDC No. 6:22-CR-111-1

Attorneys and Law Firms

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Frederique Cagniard, DOJ-United States Attorney's Office,
Austin, TX, for Plaintiff—Appellee.

John Richard Donahue, Waco, TX, for Defendant—
Appellant.

Before Southwick, Oldham, and Ramirez, Circuit Judges.

Opinion

Per Curiam: *

*1 **Christopher Hemphill** challenges his conviction for being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1), arguing that § 922(g)(1) is unconstitutional as applied to him. We AFFIRM.

I

After **Hemphill** was pulled over by the Waco Police Department for a traffic violation on June 16, 2022, he was arrested due to outstanding warrants. He admitted to the arresting officers that he was in possession of a firearm, and they found a loaded firearm in his backpack. **Hemphill** had four prior felony convictions: one for burglary of a habitation,

one for evading arrest, and two for being a felon in possession of a firearm. He was also serving a term of supervised release.

Hemphill was charged in a one-count indictment with being a felon in possession of a firearm in violation of § 922(g)(1). He moved to dismiss the indictment based on *New York State Rifle & Pistol Ass'n Inc. v. Bruen*, 597 U.S. 1, 142 S.Ct. 2111, 213 L.Ed.2d 387 (2022), arguing that § 922(g)(1) violated the Second Amendment on its face and as applied to him. After the district court denied his motion, **Hemphill** pleaded guilty under a plea agreement in which he reserved his right to appeal. **Hemphill** only appeals the denial of his as-applied challenge.

II

Hemphill's challenge is foreclosed based on *United States v. Schnur*, 132 F.4th 863 (5th Cir. 2025), and *United States v. Diaz*, 116 F.4th 458 (5th Cir. 2024), *cert. denied*, — U.S. —, — S.Ct. —, — L.Ed.2d —, 2025 WL 1727419 (June 23, 2025) (No. 24-6625).

In *Diaz*, we rejected an as-applied challenge to § 922(g)(1) under the *Bruen* framework because disarming an individual convicted of car theft fit within the Nation's historical tradition of regulating firearms. 116 F.4th at 468–72. *Diaz* left open the possibility that as-applied challenges to § 922(g)(1) under the Second Amendment could succeed, depending on the predicate convictions and whether history and tradition support disarming individuals convicted of those crimes. *Id.* at 470 n.4. We recently held in *Schnur*, however, that *Diaz* also forecloses an as-applied challenge by an individual convicted of “theft-related” offenses such as robbery and burglary. *See Schnur*, 132 F.4th at 870–71. Because one of **Hemphill's** predicate convictions here is burglary of a habitation, his as-applied challenge is foreclosed.¹

* * *

The district court's judgment of conviction is AFFIRMED.

All Citations

Not Reported in Fed. Rptr., 2025 WL 1898366

Footnotes

* This opinion is not designated for publication. See 5th Cir. R. 47.5.

1 Alternatively, **Hemphill's** as-applied challenge fails under *United States v. Giglio*, 126 F.4th 1039, 1043–46 (5th Cir. 2025), and *United States v. Contreras*, 125 F.4th 725, 732–33 (5th Cir. 2025), which held that the Second Amendment “allows the [G]overnment to disarm individuals who are carrying out criminal sentences,” including defendants who are on supervised release at the time of arrest.

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