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United States v. Doster,
No. 25-60258,
2025 WL 3473357 (5th Cir. December 3, 2025)

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

December 3, 2025

Lyle W. Cayce
Clerk

No. 25-60258

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MICKEY DOSTER,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:24-CR-82-1

Before CLEMENT, GRAVES, and HO, *Circuit Judges.*

PER CURIAM:*

Mickey Doster was convicted for possessing a weapon as a felon, in violation of 18 U.S.C. § 922(g)(1). He had previously been convicted for business burglary, grand larceny, and motor vehicle theft. He challenges his conviction, arguing that § 922(g)(1) is impermissibly vague. Because he has not shown that § 922(g)(1) is vague in his case, and his other challenges are foreclosed by circuit precedent, we affirm.

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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I.

Doster was indicted for possessing a weapon as a felon, in violation of 18 U.S.C. § 922(g)(1). Doster had been previously convicted for business burglary, grand larceny, and motor vehicle theft.

Doster moved to dismiss the indictment, arguing that § 922(g)(1) violates the Second Amendment as applied to him, as well as on its face. Doster also argued that § 922(g)(1) is unconstitutionally vague and violates the Equal Protection Clause and the Commerce Clause. The district court rejected all of Doster's arguments. Doster then pled guilty pursuant to a plea agreement that preserved his right to appeal his constitutional claims.

This timely appeal followed. Doster argues that his conviction under § 922(g)(1) facially violates the Second Amendment and as applied to him. Doster also argues that § 922(g)(1) violates the Commerce Clause and the Equal Protection Clause, and that it is void-for-vagueness.

As Doster admits, his Second Amendment arguments and his Commerce Clause argument are foreclosed by precedent. *See United States v. Diaz*, 116 F.4th 458, 471–72 (5th Cir. 2024) (holding that § 922(g)(1) does not facially violate the Second Amendment, and that those convicted of motor vehicle theft may be permanently disarmed under the Second Amendment); *United States v. Alcantar*, 733 F.3d 143, 145–46 (5th Cir. 2013) (holding that § 922(g)(1) does not violate the Commerce Clause). Additionally, since Doster filed his initial brief, our court has issued a published decision that forecloses his Equal Protection challenge. *See United States v. Goody*, 143 F.4th 617, 619 (5th Cir. 2025) (per curiam) (holding that § 922(g)(1) does not violate equal protection). Therefore, only Doster's vagueness argument remains.

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II.

“A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required.” *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012). “Vagueness doctrine is an outgrowth . . . of the Due Process Clause of the Fifth Amendment.” *United States v. Williams*, 553 U.S. 285, 304 (2008). “A conviction fails to comport with due process if the statute under which it is obtained fails to provide a person of ordinary intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages seriously discriminatory enforcement.” *Id.*

In the criminal context, “the void-for-vagueness doctrine requires that a penal statute define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement.” *Kolender v. Lawson*, 461 U.S. 352, 357 (1983). “[V]agueness challenges to statutes which do not involve First Amendment freedoms must be examined in the light of the facts of the case at hand.” *United States v. Mazurie*, 419 U.S. 544, 550 (1975).

There is a “strong presumptive validity that attaches to an Act of Congress.” *United States v. Nat’l Dairy Prods. Corp.*, 372 U.S. 29, 32 (1963). “[S]tatutes are not automatically invalidated as vague simply because difficulty is found in determining whether certain marginal offenses fall within their language.” *Id.* Therefore, “a defendant whose conduct is clearly prohibited cannot be the one making [a vagueness] challenge.” *United States v. Thomas*, 877 F.3d 591, 599 (5th Cir. 2017) (citation omitted). Rather, the defendant must first show that “the statute is vague *in his case.*” *United States v. Clark*, 582 F.3d 607, 614 (5th Cir. 2009).

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Doster does not argue that § 922(g)(1) “grants too much enforcement discretion to the Government. We therefore address only whether the statute provides a person of ordinary intelligence fair notice of what is prohibited.” *Holder v. Humanitarian L. Project*, 561 U.S. 1, 20 (2010) (cleaned up).

Doster argues that § 922(g)(1) fails to provide this fair notice because *Diaz* requires courts to engage in historical-analogical reasoning to determine whether a particular predicate felony can be grounds for disarmament under the Second Amendment, and so a “person of ordinary intelligence” could not determine “what is prohibited.” *Id.*

Doster’s argument fails. When a defendant challenges a statute as void for vagueness, the threshold question is whether “the statute is vague *in his case.*” *Clark*, 582 F.3d at 614. Even if we were open to the suggestion that *Diaz* could potentially render § 922(g)(1) unconstitutionally vague, it was not vague in *this* case: Doster has previously been convicted of motor vehicle theft, and that is the same predicate crime affirmed in *Diaz* as valid for a § 922(g)(1) conviction. *Diaz*, 116 F.4th at 468–69.

In response, Doster suggests in his reply brief that the Supreme Court’s decision in *N.Y. State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022), makes § 922(g)(1) unconstitutionally vague. But Doster makes no showing that *Bruen* made § 922(g)(1) vague in his case. He asserts only that § 922(g)(1) is vague in general. Without more, his vagueness claim fails.

We affirm.