APPENDIX

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United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
March 5, 2026
Lyle W. Cayce
Clerk

No. 25-60167

United States of America,

Plaintiff—Appellee,

versus

Lester Landrum,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:24-CR-63-1

Before Davis, Jones, and Stewart, *Circuit Judges*.

W. Eugene Davis, *Circuit Judge*:

Lester Landrum appeals his conviction for possession of a firearm after a felony conviction in violation of 18 U.S.C. § 922(g)(1). He challenges his conviction on the basis that § 922(g)(1) is unconstitutionally vague. Because we do not find that § 922(g)(1) is void for vagueness, and because all Landrum's other arguments are foreclosed by our precedent, we AFFIRM.

I.

Landrum was indicted for possessing a firearm as a felon in violation of 18 U.S.C. § 922(g)(1). The indictment charged that he unlawfully possessed the weapon on November 12, 2023. Landrum's prior felonies include convictions for drug trafficking and a DUI offense. He was also serving a sentence of supervised release as to the DUI offense at the time of his § 922(g)(1) offense.

Landrum moved to dismiss the indictment, arguing that § 922(g)(1) is unconstitutional on several grounds. The district court denied the motion. Landrum then pled guilty pursuant to a plea agreement that preserved his right to appeal all his constitutional claims.

II.

This timely appeal followed. Landrum argues § 922(g)(1) is: (1) facially unconstitutional under the Second Amendment, (2) unconstitutional as applied under the Second Amendment, (3) unconstitutional under the Equal Protection clause, and (4) beyond the scope of the Commerce Clause. All these arguments are foreclosed by our precedent.[1]

The only non-foreclosed argument Landrum makes is that § 922(g)(1) is unconstitutionally vague. We have previously held this contention fails on

[1] *See United States v. Diaz*, 116 F.4th 458, 471–72 (5th Cir. 2024) (holding § 922(g)(1) does not facially violate the Second Amendment); *United States v. Kimble*, 142 F.4th 308, 318 (5th Cir. 2025), *cert. denied*, No. 25-5747, 2026 WL 135675 (U.S. Jan. 20, 2026) (holding § 922(g)(1) does not violate the Second Amendment as applied to those with predicate drug trafficking felonies); *United States v. Giglio*, 126 F.4th 1039, 1045 (5th Cir. 2025) (holding § 922(g)(1) does not violate the Second Amendment as applied to those who possess a firearm while serving a term of supervised release); *United States v. Goody*, 143 F.4th 617, 619 (5th Cir. 2025) (per curiam) (holding § 922(g)(1) does not violate the Equal Protection clause); *United States v. Alcantar*, 733 F.3d 143, 145–46 (5th Cir. 2013) (holding § 922(g)(1) does not violate the Commerce Clause).

plain-error review.[2] But Landrum preserved his vagueness challenge, so we review it here de novo.[3]

III.

"Vagueness doctrine is an outgrowth . . . of the Due Process Clause of the Fifth Amendment."[4] "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."[5] "[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."[6] So, a criminal defendant must show that his statute of conviction "is vague *in his case*."[7]

IV.

Because Landrum's vagueness argument invokes recent developments in Second Amendment case law, we briefly summarize the relevant precedents. In 2022, the Supreme Court "established a new historical paradigm for analyzing Second Amendment claims"[8] in *New York State Rifle and Pistol Association v. Bruen*.[9] The Court explained that for a law disarming people to comport with the Second Amendment, the government

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[2] *United States v. Branson*, 139 F.4th 475, 479 (5th Cir. 2025), *cert. denied*, No. 25-5565, 2026 WL 135762 (U.S. Jan. 20, 2026).

[3] *United States v. Howard*, 766 F.3d 414, 419 (5th Cir. 2014) ("We review preserved challenges to the constitutionality of a criminal statute *de novo.*").

[4] *United States v. Williams*, 553 U.S. 285, 304 (2008).

[5] *Id.*

[6] *United States v. Mazurie*, 419 U.S. 544, 550 (1975).

[7] *United States v. Clark*, 582 F.3d 607, 614 (5th Cir. 2009) (emphasis in original).

[8] *Diaz*, 116 F.4th at 465.

[9] 597 U.S. 1, 24 (2022).

must "justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation."[10] To do this, the government must "identify a well-established and representative historical analogue" for the modern law.[11]

In 2024, in *United States v. Diaz*, we considered whether § 922(g)(1) is constitutional under *Bruen's* historical-tradition test.[12] We did not hold, like some other circuits, that § 922(g)(1) is categorically constitutional based on a sufficient tradition of disarming felons generally.[13] Instead, we held § 922(g)(1) is constitutional only as applied to those felons whose *particular* predicate offenses have a historical analogue supporting disarmament.[14]

Since *Diaz*, we have analyzed a variety of felonies and found that some can support a § 922(g)(1) conviction while others cannot.[15] As relevant here, we held in *United States v. Kimble* that § 922(g)(1) is constitutional as to those with predicate drug trafficking felonies.[16] And, we held in *United States v.*

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[10] *Id.*

[11] *Id.* at 30.

[12] 116 F.4th at 465.

[13] *See, e.g.*, *United States v. Jackson*, 110 F.4th 1120, 1129 (8th Cir. 2024), *cert. denied*, 145 S. Ct. 2708 (2025); *United States v. Hunt*, 123 F.4th 697, 706 (4th Cir. 2024), *cert. denied*, 145 S. Ct. 2756 (2025).

[14] *See Diaz*, 116 F.4th at 469 ("Simply classifying a crime as a felony does not meet the level of historical rigor required by *Bruen* and its progeny.").

[15] *See, e.g.*, *United States v. Betancourt*, 139 F.4th 480, 484 (5th Cir. 2025), *cert. denied*, No. 25-5514, 2026 WL 135617 (U.S. Jan. 20, 2026) (holding that aggravated assault is a valid § 922(g)(1) predicate); *United States v. Cockerham*, 162 F.4th 500, 510 (5th Cir. 2025) (holding that failure to pay child support is *not* a valid § 922(g)(1) predicate).

[16] 142 F.4th at 318.

Giglio that § 922(g)(1) is constitutional as to those serving a term of supervised release at the time of their unlawful possession of a firearm.[17]

V.

Landrum has prior drug trafficking felonies, and he committed his § 922(g)(1) offense while on supervised release. So, he concedes that *Kimble* and *Giglio* mean he can be constitutionally disarmed pursuant to the Second Amendment. But he points out that these decisions had not been handed down at the time of his offense conduct—his possession of the firearm in November of 2023. He thus avers that at the time of his offense, an ordinary person with his history would not have had "fair warning" that he could not possess a firearm. That is, he contends that *Bruen* and *Diaz* rendered § 922(g)(1) unconstitutionally vague by requiring courts to perform unpredictable historical analyses to determine the constitutionality of convictions under the statute.

There are two fatal problems with Landrum's argument. First, the vagueness doctrine requires that the *challenged statute itself* be unconstitutionally vague.[18] Landrum does not argue that § 922(g)(1) itself is vague, nor could he: the statute "clearly defines the prohibited conduct—possessing a firearm as a felon."[19] That clarity is dispositive.

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[17] 126 F.4th at 1045.

[18] *See Kolender v. Lawson*, 461 U.S. 352, 357 (1983) ("[T]he 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." (emphasis added)); *Johnson v. United States*, 576 U.S. 591, 595 (2015) ("The prohibition of vagueness *in criminal statutes* is a well-recognized requirement." (emphasis added) (internal quotation marks omitted)); *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." (emphasis added)).

[19] *Branson*, 139 F.4th at 479.

Second, none of the decisions Landrum points to could have created genuine confusion *in his case*.[20] In Landrum's principal brief, he blames *Diaz* for creating vagueness by requiring courts to "engage in historical analysis for each predicate felony." But as the government correctly points out, *Diaz* post-dates Landrum's offense conduct, so there is no way that decision could have spawned vagueness in his case.[21]

In his reply brief, Landrum attempts to salvage his position by contending that *Bruen* created vagueness as early as 2022 by introducing the foundational historical-tradition test. But *Bruen* is not a § 922(g)(1) case and made no pronouncement on the constitutionality of that statute. Accordingly, it could not have caused an ordinary person in Landrum's position to experience confusion as to the continued viability of § 922(g)(1). Moreover, no precedent supports the proposition that a Supreme Court decision interpreting the constitution's protections can render a clear statute void for vagueness.[22]

AFFIRMED.

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[20] *Clark*, 582 F.3d at 614.

[21] *See Branson*, 139 F.4th at 479 n.2 ("[Appellant] offers our September 2024 *Diaz* decision as the catalyst that made § 922(g)(1) vague. The corollary is that pre-*Diaz* § 922(g)(1) was not vague. Thus, when [Appellant] was arrested in June 2023—over a year before *Diaz* issued—he had fair notice that pursuant to § 922(g)(1) it was illegal for him to possess a firearm.").

[22] *See id.* at 479 ("We are aware of no precedent that permits a vagueness challenge to circumvent the text because a court's interpretation has rendered vague an otherwise pellucid statutory provision."); *Columbia Nat. Res., Inc. v. Tatum*, 58 F.3d 1101, 1106 (6th Cir. 1995) ("No precedent supports the proposition that a party may attack a Supreme Court decision as void for vagueness.").

AO 245B(Rev. 09/19) Judgment in a Criminal Case

LJ/ml

UNITED STATES DISTRICT COURT

Southern District of Mississippi

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
FILED
Mar 27 2025
ARTHUR JOHNSTON, CLERK

UNITED STATES OF AMERICA
v.
LESTER LANDRUM

JUDGMENT IN A CRIMINAL CASE

Case Number: 3:24CR63DPJ-LGI-1

USM Number: 25938-511

Abby B. Edwards
Defendant's Attorney

THE DEFENDANT:

☑ pleaded guilty to count(s) 2 of the Indictment

☐ pleaded nolo contendere to count(s) ______ which was accepted by the court.

☐ was found guilty on count(s) ______ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. §§ 922(g)(1) and 924(a)(8)	Felon in Possession of a Firearm	11/12/2023	2

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) ______

☑ Count(s) 1 ☑ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

March 24, 2025
Date of Imposition of Judgment

Signature of Judge

The Honorable Daniel P. Jordan III U.S. District Judge
Name and Title of Judge

3-26-25
Date

1b

DEFENDANT: LESTER LANDRUM
CASE NUMBER: 3:24CR63DPJ-LGI-1

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

74 months, to run consecutively to any undischarged state term of imprisonment.

☑ The court makes the following recommendations to the Bureau of Prisons:

The defendant be designated to FCI Talladega, Alabama, or FCC Yazoo City, Mississippi, or nearest facility to Meridian, Mississippi, and further recommends the defendant participate in the 500 hour intensive drug treatment program, as deemed eligible.

☑ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

- ☐ at __________ ☐ a.m. ☐ p.m. on __________ .
- ☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- ☐ by 12 p.m. on __________ .
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on __________ to __________

at __________ , with a certified copy of this judgment.

____
UNITED STATES MARSHAL

By __________
DEPUTY UNITED STATES MARSHAL

DEFENDANT: LESTER LANDRUM
CASE NUMBER: 3:24CR63DPJ-LGI-1

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

3 years

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
   ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☑ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: LESTER LANDRUM
CASE NUMBER: 3:24CR63DPJ-LGI-1

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature ______________________ Date ______________

DEFENDANT: LESTER LANDRUM
CASE NUMBER: 3:24CR63DPJ-LGI-1

SPECIAL CONDITIONS OF SUPERVISION

1. You shall not incur new credit charges or open additional lines of credit without the approval of the probation officer unless in compliance with the installment payment schedule.

2. You shall provide the probation office with access to any requested financial information. You must also notify the court of any changes in economic circumstances that might affect the ability to pay this financial penalty.

3. You shall submit your person, property, house, residence, vehicle, papers, electronic communication devices, or office, to a search conducted by a United States probation officer. Failure to submit to a search may be grounds for revocation of release. You shall warn any other occupants that the premises may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that you have violated a condition of your supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.

4. You shall not possess, ingest, or otherwise use synthetic THC, or other synthetic narcotics.

5. In the event that you reside in or visit a jurisdiction where marijuana or marijuana products have been approved, legalized, or decriminalized, you shall not possess, ingest, or otherwise use marijuana products.

6. You shall participate in a program of testing and outpatient treatment (and inpatient treatment if approved by the Court during the term of supervised release) for alcohol/drug abuse as directed by the probation office. When enrolled in an alcohol/drug treatment program, either inpatient or outpatient, you shall abstain from consuming alcoholic beverages during treatment and shall continue abstaining for the remaining period of supervision. You shall contribute to the cost of treatment in accordance with the probation office co-payment policy.

DEFENDANT: LESTER LANDRUM
CASE NUMBER: 3:24CR63DPJ-LGI-1

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	$ 100.00	$	$ 1,500.00	$	$

☐ The determination of restitution is deferred until __________. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss***	Restitution Ordered	Priority or Percentage
TOTALS	$ 0.00	$ 0.00	

☐ Restitution amount ordered pursuant to plea agreement $ __________

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.