

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

CARLOS ISAAC BARRIENTOS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

APPENDIX

/s/ Adam Nicholson

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Appendix A Opinion of Fifth Circuit, CA No. 25-10912, *United States v. Barrientos*, 2026 WL 661999 (5th Cir. Mar. 9, 2026) (unpublished).

Appendix B Judgment and Sentence of the United States District Court for the Northern District of Texas, entered July 24, 2025.
United States v. Barrientos, Dist. Court 4:25-CR-075.

APPENDIX A

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 9, 2026

Lyle W. Cayce
Clerk

No. 25-10912
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CARLOS ISAAC BARRIENTOS,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:25-CR-75-1

Before WIENER, WILLETT, and WILSON, *Circuit Judges*.

PER CURIAM:*

Carlos Isaac Barrientos appeals following his guilty plea convictions for production of child pornography, 18 U.S.C. § 2251(a), (e), and possession of a machine gun, 18 U.S.C. §§ 922(o), 924(a)(2). He argues that (1) his appeal waiver does not bar his appeal because (a) it contains an implied exception for alleged constitutional errors of a fundamental nature, and (b) it

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

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is invalidated by the district court’s statement at sentencing that he had a right to appeal; (2) § 922(o) plainly exceeds Congress’s power to regulate under the Commerce Clause (as applied to “Glock switches”); and (3) § 922(o) violates his Second Amendment right to bear arms. The Government has filed an unopposed motion for summary affirmance, arguing that this court does not recognize the exceptions to the appeal waiver identified by Barrientos and that the waiver is knowing and voluntary and thereby bars his constitutional challenges to his § 922(o) conviction. It argues in the alternative that Barrientos’s constitutional challenges are foreclosed by this court’s precedent.

We have held that there is no general exception to appeal waivers for constitutional challenges to a judgment, *see United States v. Barnes*, 953 F.3d 383, 388–89 (5th Cir. 2020), and we have rejected the argument that a district court’s statement at sentencing that the defendant has a right to appeal vitiates his knowing and voluntary waiver of his right to appeal, *see United States v. Gonzalez*, 259 F.3d 355, 358 (5th Cir. 2001). That these issues are presently pending before the Supreme Court is of no moment because under this court’s rule of orderliness, “one panel of our court may not overturn another panel’s decision, absent an intervening change in the law, such as by a statutory amendment, or the Supreme Court, or our en banc court.” *United States v. Reyes*, 141 F.4th 682, 685 (5th Cir. 2025) (internal quotation marks and citation omitted). Thus, these issues are foreclosed.

Barrientos does not contend that his assent to the appeal waiver was otherwise unknowing or involuntary. Accordingly, his constitutional challenges to his convictions are barred by the appeal waiver, as the Government contends and Barrientos concedes. *See United States v. Nyandoro*, 146 F.4th 448, 457–60, 463, 460 n.47 (5th Cir. 2025), *petition for cert. filed* (U.S. Nov. 20, 2025) (No. 25-6218) (holding that appeal waiver foreclosed Commerce Clause challenge and challenge to constitutionality

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of § 922(g)(3)). Because these challenges are barred by the appeal waiver, we need not decide whether they also are foreclosed by this court's precedent.

In light of the foregoing, summary affirmance is appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Accordingly, the Government's motion for summary affirmance is GRANTED and its alternative motion for an extension of time is DENIED. The judgment of the district court is AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURTNORTHERN DISTRICT OF TEXAS
Fort Worth Division

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

CARLOS ISAAC BARRIENTOS

Case Number: 4:25-CR-00075-O(01)

U.S. Marshal's No.: 65820-179

Allyson Monte, Assistant U.S. Attorney

Michael A Lehmann, Attorney for the Defendant

On April 16, 2025 the defendant, CARLOS ISAAC BARRIENTOS, entered a plea of guilty as to Count One and Four of the Indictment filed on March 12, 2025. Accordingly, the defendant is adjudged guilty of such Count, which involves the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 2251(a) and (e)	Production of Child Pornography	09/21/2024	One
18 U.S.C. § 922(0) and § 924(a)(2)	Possession of a Machinegun	09/21/2024	Four

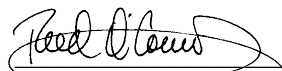
The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to Title 18, United States Code § 3553(a), taking the guidelines issued by the United States Sentencing Commission pursuant to Title 28, United States Code § 994(a)(1), as advisory only.

The defendant shall pay immediately a special assessment of \$200.00 as to Count One and Four of the Indictment filed on March 12, 2025. The Court concluded the defendant does not have the current financial resources or future earning capacity to pay an assessment under 18 U.S.C. § 2259A (The Amy, Vicky, and Andy Act). Thus, the assessment for Count 1 shall be \$0. The Court further concluded the defendant is indigent and the \$5,000 assessment required pursuant to 18 U.S.C. § 3014 is waived.

Upon motion of the government, all remaining counts are dismissed, as to this defendant only.

The defendant shall notify the United States Attorney for this district within thirty 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.

Sentence imposed July 24, 2025.



REED O'CONNOR
U.S. DISTRICT JUDGE

Signed July 24, 2025.

Judgment in a Criminal Case
Defendant: CARLOS ISAAC BARRIENTOS
Case Number: 4:25-CR-00075-O(1)

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IMPRISONMENT

The defendant, CARLOS ISAAC BARRIENTOS, is hereby committed to the custody of the Federal Bureau of Prisons (BOP) to be imprisoned for a term of THREE HUNDRED TWENTY-FOUR (324) MONTHS as to Count One and EIGHTY-ONE (81) MONTHS as to Count Four of the Indictment filed on March 12, 2025. Those terms are to run **CONSECUTIVE** for a **TOTAL** of **FOUR HUNDRED FIVE (405) MONTHS**. This sentence shall run concurrently with any future sentence which may be imposed in Case Nos. 1844161 and 1848090 in the 371st Judicial District Court, Tarrant County, in Fort Worth and Case Nos. 1844160, 1844230, 1844157, and 1844162 in the Tarrant County Criminal Court No. 9.

The Court recommends to the BOP that the defendant be allowed to participate in the Sex Offender Treatment Program, if eligible. The Court makes a non-binding recommendation to the BOP that Defendant, if appropriately classified, be allowed to serve his term of imprisonment at an FCI Facility within the Northern District of Texas.

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

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of FIFTEEN (15) YEARS as to Count One and and THREE (3) YEARS as to Count Four of the Indictment filed on March 12, 2025. Those terms to run **CONCURRENT** for a **TOTAL** of **FIFTEEN (15) YEARS**.

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.

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- (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.

In addition the defendant shall:

not commit another federal, state, or local crime;

not illegally possess controlled substances;

cooperate in the collection of DNA as directed by the probation officer;

not possess a firearm, ammunition, destructive device, or any dangerous weapon;

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;

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;

make restitution in accordance with 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663, 3663A, and 3664;

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pay the assessment imposed in accordance with 18 U.S.C. § 3013;

have no contact with the victim(s), including correspondence, telephone contact, or communication through third parties except under circumstances approved in advance by the probation officer and not enter onto the premises, travel past, or loiter near the victims' residences, places of employment, or other places frequented by the victims;

have no contact with minors under the age of 18, including by correspondence, telephone, internet, electronic communication, or communication through third parties. The defendant shall not have access to or loiter near school grounds, parks, arcades, playgrounds, amusement parks or other places where children may frequently congregate, except as may be allowed upon advance approval by the probation officer;

not use any computer other than the one the defendant is authorized to use without prior approval from the probation officer;

not use any software program or device designed to hide, alter, or delete records and/or logs of the defendant's computer use, Internet activities, or files stored on the defendant's computer;

not use any computer or computer-related equipment owned by his/her employer except for the strict benefit of his/her employer in the performance of his job-related duties;

participate and comply with the requirements of the Computer and Internet Monitoring Program and shall pay the costs of the program. The defendant shall consent to the probation officer's conducting ongoing monitoring of his/her computer/computers. The monitoring may include the installation of hardware and/or software systems that allow evaluation of computer use. The defendant shall not remove, tamper with, reverse engineer, or circumvent the software in any way. The defendant shall only use authorized computer systems that are compatible with the software and/or hardware used by the Computer and Internet Monitoring Program. The defendant shall permit the probation officer to conduct a preliminary computer search prior to the installation of software. At the discretion of the probation officer, the monitoring software may be disabled or removed at any time during the term of supervision;

provide the probation officer with accurate information about his entire computer system. The defendant's email shall only be accessed through a pre-approved application;

submit to periodic, unannounced examinations of his computer/computers, storage media, and/or other electronic or Internet-capable devices, performed by the probation officer at reasonable times and in a reasonable manner based on reasonable suspicion of contraband evidence of a violation of supervision. This may include the retrieval and copying of any prohibited data and/or the removal of such system for the purpose of conducting a more thorough inspection. The defendant shall provide written authorization for release of information from the defendant's Internet service provider;

not install new hardware, perform upgrades, or effect repairs on his computer system without the prior permission of the probation officer;

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not possess, have access to, or utilize a computer or Internet connection device, including, but not limited to Xbox, PlayStation, Nintendo, or similar device, without permission of the probation officer. This condition requires preapproval for categories of computer or Internet access or use; it does not require separate pre-use approval every time the defendant accesses or uses a computer or the Internet;

provide to the probation officer complete access to all business and personal financial information;

neither possess nor have under his control any pornographic matter or any matter that sexually depicts minors under the age of 18 including, but not limited to, matter obtained through access to any computer and any matter linked to computer access or use;

participate in sex-offender treatment services as directed by the probation officer until successfully discharged, which services may include psycho-physiological testing to monitor the defendant's compliance, treatment progress, and risk to the community, contributing to the costs of services rendered (copayment) at the rate of at least \$25 per month; and,

participate in an outpatient program approved by the probation officer for treatment of narcotic or drug or alcohol dependency that will include testing for the detection of substance use, abstaining from the use of alcohol and all other intoxicants during and after completion of treatment, contributing to the costs of services rendered (copayment) at the rate of at least \$25 per month.

FINE/RESTITUTION

The Court does not order a fine or costs of incarceration because the defendant does not have the financial resources or future earning capacity to pay a fine or costs of incarceration.

Restitution is not ordered because none as been requested as of this date.

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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 Marshal