United States Court of Appeals for the Fifth Circuit

No. 25-10565
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
March 23, 2026
Lyle W. Cayce
Clerk

United States of America,

Plaintiff—Appellee,

versus

Jaterron Williamson,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:24-CR-260-1

Before Wiener, Willett, and Wilson, *Circuit Judges*.

Per Curiam:

Jaterron Williamson appeals his conviction for possession of a firearm by a convicted felon under 18 U.S.C. § 922(g)(1). He contends that § 922(g)(1) is unconstitutional because it violates the Second Amendment as applied to him and exceeds Congress's authority under the Commerce Clause. The Government has filed an opposed motion for summary affirmance or, alternatively, for an extension of time to file a brief. Though Williamson's appeal can be resolved without further briefing, summary affirmance is not appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Relying on *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 24 (2022), and *United States v. Diaz*, 116 F.4th 458 (5th Cir. 2024), *cert. denied*, 145 S. Ct. 2822 (2025), Williamson contends that § 922(g)(1) violates the Second Amendment as applied to him because his prior felony offenses are not analogous to any colonial era offense punishable by execution or estate forfeiture. He asserts that because the district court erroneously concluded that pre-*Bruen* caselaw foreclosed his Second Amendment challenge, we should remand the case for the district court to apply the correct legal framework in the first instance. We do not agree.

Williamson had three prior felony convictions for "Deadly Conduct – Discharge Firearm at Individual." These offenses are closely analogous to the deadly conduct conviction that we relied on, in part, to reject an as-applied challenge to § 922(g)(1) in *United States v. Reyes*, 141 F.4th 682, 686–87 & n.9 (5th Cir. 2025). Although Williamson suggests that *Reyes* and a line of similar cases were wrongly decided, it is well-settled that one panel of this 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 [the] en banc court." *Jacobs v. Nat'l Drug Intelligence Ctr.*, 548 F.3d 375, 378 (5th Cir. 2008). Accordingly, Williamson's as-applied challenge fails. *See id.* at 687. Additionally, Williamson correctly concedes that his Commerce Clause challenge is foreclosed. *See United States v. Alcantar*, 733 F.3d 143, 145–46 (5th Cir. 2013).

For these reasons, the Government's opposed motion for summary affirmance is DENIED; its alternative motion for an extension of time to file a brief is also DENIED, as unnecessary. The judgment of the district court is AFFIRMED.

Don R. Willett, *Circuit Judge*, joined by Cory T. Wilson, *Circuit Judge*, concurring:

Each of Williamson's constitutional challenges to 18 U.S.C. § 922(g)(1) fails under binding circuit precedent. We have squarely rejected both enumerated-powers and facial Second Amendment challenges to § 922(g)(1).[1] And the logic of our decision in *United States v. Reyes* dooms Williamson's as-applied Second Amendment challenge as well.[2] I therefore join the majority opinion, which faithfully applies our rule of orderliness to reject each of Williamson's arguments.

Even so, I remain doubtful that our precedent rejecting enumerated-powers challenges to § 922(g)(1) was correctly decided.[3] As a threshold matter, "Congress has no power to enact a comprehensive criminal code, . . . § 922[(g)], like every other federal statute, must be based on one or more of Congress's powers enumerated in the Constitution."[4] The

[1] *See United States v. Rawls*, 85 F.3d 240, 242–43 (5th Cir. 1996) (per curiam) (rejecting a Commerce Clause challenge to § 922(g)(1) after *United States v. Lopez*, 514 U.S. 549 (1995)); *United States v. Diaz*, 116 F.4th 458, 471–72 (5th Cir. 2024) (rejecting a facial Second Amendment challenge to § 922(g)(1) after *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022)).

[2] *See* 141 F.4th 682, 686–87 (5th Cir. 2025) (per curiam) (rejecting an as-applied challenge to § 922(g)(1) based on the defendant's "violent criminal history," including "a felony conviction for deadly conduct discharge of a firearm").

[3] *See United States v. Bonner*, 159 F.4th 338, 340–43 (5th Cir. 2025) (Willett, J., concurring); *United States v. Hembree*, 165 F.4th 909, 919–20 (5th Cir. 2026) (Willett, J., concurring); *cf. United States v. Wilson*, 164 F.4th 380, 389–94 (5th Cir. 2026) (Willett, J., concurring) (raising similar concerns about § 922(o)).

[4] *Wilson*, 164 F.4th at 391 (Willett, J., concurring) (cleaned up).

Interstate Commerce Clause[5] is a "natural first place to look."[6] But the Clause's original meaning—adherence to which is "[t]he first and most important rule in constitutional interpretation"[7]—does not support § 922(g)(1).

Consider the ratification debates. How could the Federalists have assured skeptics that Congress lacked power to infringe individual rights[8]—including the right to "keep . . . Arms"[9]—if the mere exercise of that right were itself enough to trigger federal power?[10] If mere possession sufficed, the Commerce Clause would quietly—but completely—confer the very general police power the Constitution withholds from Congress. To be sure, the Supreme Court has embraced an "expansive interpretation of the commerce power."[11] But even that understanding extends only to "three general

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[5] U.S. Const. art. I, § 8, cl. 3 ("The Congress shall have Power . . . [t]o regulate Commerce . . . among the several States . . . .").

[6] *Wilson*, 164 F.4th at 391 (Willett, J., concurring).

[7] *United States v. Rahimi*, 602 U.S. 680, 715 (2024) (Kavanaugh, J., concurring).

[8] *See Hembree*, 165 F.4th at 918–19 (Willett, J., concurring).

[9] U.S. Const. amend. II; *see Range v. Att'y Gen.*, 69 F.4th 96, 106–07 (3d Cir. 2023) (Porter, J., concurring), *cert. granted, judgment vacated sub nom.*, 144 S Ct. 2706 (2024) (mem.); William Rawle, A View of the Constitution of the United States of America 125 (2d ed. 1829) ("No clause in the Constitution could by any rule of construction be conceived to give to congress a power to disarm the people.").

[10] After all, "possess . . . firearm[s]," 18 U.S.C. § 922(g), is simply another way of saying "keep . . . arms." *See Diaz*, 116 F.4th at 467 ("The plain text of the Second Amendment covers the conduct prohibited by § 922(g)(1) . . . ."); *Duncan v. Bonta*, 83 F.4th 803, 813 n.2 (9th Cir. 2023) (Bumatay, J., dissenting) ("[P]ossession of a firearm falls within the 'keep and bear' textual element and so it is conduct protected by the Second Amendment.").

[11] *Hembree*, 165 F.4th at 920 (Willett, J., concurring); *see also, e.g.*, *United States v. Darby*, 312 U.S. 100, 118 (1941) ("The power of Congress over interstate commerce is

categories of regulation"[12]—none of which includes "[m]ere possession of a firearm."[13] For that reason, I remain open to reconsidering our precedent insulating § 922(g)(1) from enumerated-powers challenges.

I also have doubts about whether *Reyes* fully accords with the framework we articulated in *United States v. Diaz* for evaluating as-applied Second Amendment challenges to § 922(g)(1). Under *Diaz*, we ask whether "at least one of the predicate crimes that [the] § 922(g)(1) conviction relies on . . . was a felony and thus would have led to capital punishment or estate forfeiture" at the Founding.[14] But our later cases have not uniformly followed that approach. Some—including *Reyes*—have instead applied a more generalized dangerousness inquiry.[15] Perhaps *Diaz*'s common-law-analogue test best captures our "historical tradition of firearm regulation."[16] Or

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not confined to the regulation of commerce among the states."); *Wickard v. Filburn*, 317 U.S. 111, 128–29 (1942) (upholding the use of the commerce power to regulate the growing of "wheat consumed on the farm where grown").

[12] *Gonzales v. Raich*, 545 U.S. 1, 16 (2005).

[13] *Bonner*, 159 F.4th at 341 (Willett, J., concurring).

[14] 116 F.4th at 469–70; *see United States v. Contreras*, 125 F.4th 725, 731 (5th Cir. 2025) ("[T]he *Bruen* inquiry, as articulated in *Diaz*, requires not only showing that someone convicted of any felony was punished in a comparable way but that someone convicted of an analogous felony was punished in a comparable way.").

[15] *See Reyes*, 141 F.4th at 686–87; *United States v. Bullock*, 123 F.4th 183, 185 (5th Cir. 2024) (per curiam) ("The historical record demonstrates that legislatures have the power to prohibit dangerous people from possessing guns." (cleaned up)); *United States v. Kimble*, 142 F.4th 308, 312 (5th Cir. 2025) (rejecting the Government's argument that the defendant's "predicate felony [was] analogous to Founding-era felonies punishable by death or estate forfeiture" but nonetheless affirming because the offense was "an intrinsically dangerous felony").

[16] *Bruen*, 597 U.S. at 17; *cf. Bonner*, 159 F.4th at 344–45 (Willett, J., concurring) (observing that *Bruen* and *Rahimi* require courts to focus on "§ 922(g)(1) itself" rather than "a hypothetical, 'what-if' statute"). *But see id.* at 343–44 (warning against reliance on "historical laws that were, in no meaningful sense, 'firearm

perhaps a more generalized dangerousness inquiry better captures that tradition.[17] Perhaps neither captures the tradition completely. Or perhaps each captures a distinct strand of it. For now, however, our cases send mixed signals about how district courts should analyze as-applied Second Amendment challenges to § 922(g)(1). In an appropriate case, our full court—or the Supreme Court—should supply the clarity this unsettled corner of Second Amendment law now lacks.

regulations'" and observing that "capital punishment is a 'firearm regulation' in only the loosest sense").

[17] *See, e.g.*, *Kanter v. Barr*, 919 F.3d 437, 451–69 (7th Cir. 2019) (Barrett, J., dissenting); *Folajtar v. Att'y Gen.*, 980 F.3d 897, 913–20 (3d Cir. 2020) (Bibas, J., dissenting); *United States v. Jackson*, 85 F.4th 468, 470–72 (5th Cir. 2023) (Stras, J., dissenting from the denial of rehearing en banc); *United States v. Williams*, 113 F.4th 637, 650–57 (6th Cir. 2024) (Thapar, J.); *Range v. Att'y Gen.*, 124 F.4th 218, 228–32 (3d Cir. 2024) (en banc) (Hardiman, J.).

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v. **No. 4:24-cr-260-P-1**

JATERRON WILLIAMSON (01),

Defendant.

MEMORANDUM OPINION & ORDER

Before the Court is Defendant's Motion to Dismiss the Indictment. ECF No. 19. Having considered the Motion and applicable law, the Court determines the Motion should be and hereby is **DENIED**.

BACKGROUND

On July 9, 2024, Jaterron Williamson was arrested. On October 9, a criminal indictment was filed against him by the Government, alleging one count of possession of a firearm by a Convicted Felon in violation of 18 U.S.C. §§ 922(g)(l) and 924(a)(8)).

Mr. Williamson filed a Motion to Dismiss the Indictment on December 3, 2024. The Court now reviews that Motion to Dismiss.

LEGAL STANDARD

Federal Rule of Criminal Procedure 12 provides that "[a] party may raise by pretrial motion any defense, objection, or request that the court can determine without a trial of the general issue." FED. R. CRIM. P. 12(b)(1). If a pretrial motion presents a question of law in a case involving undisputed facts, Rule 12 authorizes the court to rule on the motion. *United States v. Flores*, 404 F.3d 320, 325 (5th Cir. 2005); *see* FED. R. CRIM. P. 12(d) (permitting the court to rule on a motion involving factual issues provided the court states its essential findings on the record); *see also United States v. Hall*, 20 F.3d 1084, 1088 (10th Cir. 1994) ("A pretrial dismissal is essentially a determination that, as a matter of law, the government is incapable of proving its case beyond a reasonable doubt."). Otherwise, the court would waste resources by allowing a case to proceed to trial and later dismissing it based on the same legal argument and facts presented through a pretrial motion. *See Flores*, 404 F.3d at 325.

ANALYSIS

1. Commerce Clause Argument

Williamson first argues that Section 922(g)(1) exceeds Congress's enumerated powers under the Commerce Clause. *See* ECF No. 19 at 2–6. However, this argument has been foreclosed in the Fifth Circuit. *See United States v. Jones,* 88 F.4th 571, 573 (5th Cir. 2023) (holding that Commerce Clause challenges to § 922(g)(1) are foreclosed).

2. § 922(g)(1) is Constitutional

In *District of Columbia v. Heller*, the Supreme Court held the Second Amendment protects the right of law-abiding, responsible citizens to use arms in defense of hearth and home. 554 U.S. 570, 635, (2008). In so doing, the *Heller* Court rejected earlier interpretations of the Second Amendment which limited its application to militia members, finding the Second Amendment guarantees an individual's right to keep and bear arms, unconnected to militia service. *See id*. at 592. The Court reached its conclusion by employing a textual analysis, informed by history. *See Id*. at 576–577. Two years later, in *McDonald v. Chicago*, the Supreme Court held the Second Amendment applies to the states through the Fourteenth Amendment. 561 U.S. 742, 767 (2010). Most recently, *Bruen* struck down a New York law requiring applicants to demonstrate a "special need" for a concealed carry license, finding it to be an impermissible restriction on the Second Amendment's protection of an "individual's right to carry a handgun for self-defense outside the home." *N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 8–11 (2022).

Post-*Heller*, the Fifth Circuit applied a two-step inquiry for assessing the constitutionality of firearms restrictions. First, courts would determine whether the regulation fell within the scope of the Second

Amendment right, looking to the text and historical tradition to inform their analysis. *See United States v. McGinnis*, 956 F.3d 747, 754 (5th Cir. 2020). If the regulation was outside the scope of the Second Amendment, then the law was constitutional. *See id.* If it was inside the scope of the Second Amendment, courts would apply means-end scrutiny to assess its constitutionality. *See id.* In *Bruen*, the Supreme Court declared the two-step inquiry to be "one step too many." 597 U.S. 1 at 2. The *Bruen* Court indicated its earlier rulings do not support applying means-end scrutiny, but only "a test rooted in the Second Amendment's text, as informed by history." *Id.*

In the wake of the *Bruen* decision, defendants across the country are challenging the constitutionality of federal firearms offenses codified in 18 U.S.C. § 922. Challengers argue the law's recent interpretation makes it suspect under *Bruen's* text-and-history analysis. Indeed, the Federal Firearms Act was first enacted in 1938, making it relatively modern in comparison to the founding-era historical analysis required by *Bruen*. *See* 597 U.S. 1 at 27–28. Here, Williamson challenges the constitutionality of federal law criminalizing possession under § 922(g)(1). The Court considers his challenge below.

Under *Bruen*, the Court first asks whether the "Second Amendment's plain text covers an individual's conduct." *Bruen*, 597 U.S. 1 at 17. For § 922(g)(1), the key question at this step is whether the Second Amendment's reference to "the people" includes felons. *Compare, e.g., United States v. Hill*, 2022 WL 17069855, at *4–5 (S.D. Tex. Nov. 17, 2022) ("[F]elon-in-possession statutes fail at the first step of the *Bruen* test—i.e., felons do not fall within the 'plain text' of the Second Amendment.").

The United States has a long history of categorically restricting the possession or ownership of firearms, spanning from its colonial era through present day. *See* Robert J. Spitzer, *Gun Law History in the United States and Second Amendment Rights*, 80 LAW & CONTEMP. PROBS. 55 (2017) (examining the history and development of U.S. gun laws and regulations by category). Some estimates indicate that there were no fewer than eleven laws among the colonies—predating the ratification of the Constitution—regulating or prohibiting the possession of firearms by convicted felons, other "criminals," or non-citizens. *Id*. at 60. This history of allowing only those citizens who are "law-abiding" to own or possess firearms is what the Court in *Heller* and *Bruen* left undisturbed. *See Heller*, 554 U.S. at 626 ("[N]othing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons."); *Bruen*, 597 U.S. 1 at 81 (Alito, J., concurring) ("Our holding decides nothing about who may lawfully possess a firearm ... [n]or have we disturbed anything that we said in *Heller* . . . about restrictions that may be imposed on the possession or carrying of guns.").

This holding is consistent with case law in the Fifth Circuit with respect to felons. *United States v. Massey*, 849 F.3d 262, 265 (5th Cir. 2017); *United States v. Scroggins*, 599 F.3d 433, 451 (5th Cir. 2010); *United States v. Jordan*, Case No. EP-22-CR-01140-DCG-1, 2023 WL 157789 (W.D. Tex. Jan. 11, 2023) (citing *United States v. Everist*, 368 F.3d 517, 519 (5th Cir. 2004)). *Bruen* did not change that fundamental premise. This Court is bound by Fifth Circuit precedent and is "'not free to overturn' the Fifth Circuit's pre-*Bruen* decisions upholding Section 922(g)(1)." *Jordan*, 2023 WL 157789, at *7 (quoting *In re Bonvillian Marine Service, Inc.*, 19 F. 4th 787, 789–90 (5th Cir. 2021)). Therefore, this Court need not conduct an exhaustive evaluation of Defendant's Second Amendment argument because this Court remains bound by circuit precedent as to § 922(g)(1). Accordingly, Williamson's argument that § 922(g)(1) is unconstitutional also fails.

CONCLUSION

Because 18 U.S.C. § 922(g)(1) is constitutional under both Congress's Commerce Power and the Second Amendment, Defendant's Motion (ECF No. 19) is **DENIED**.

SO ORDERED on this **16th day** of **December 2024**.

Mark T. Pittman

Mark T. Pittman
UNITED STATES DISTRICT JUDGE

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
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CLERK, U.S. DISTRICT COURT
By ________ Deputy

UNITED STATES OF AMERICA

v.

JATERRON WILLIAMSON (01)

NO. 4-24CR-260-P

INDICTMENT

The Grand Jury Charges:

Count One
Possession of a Firearm by a Convicted Felon
(Violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(8))

On or about July 9, 2024, in the Fort Worth Division of the Northern District of Texas, the defendant, **Jaterron Williamson**, knowing that he had been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess a firearm, that is, a Smith and Wesson, model M&P shield, 9mm pistol, bearing serial number HDE4846, said firearm having been shipped and transported in interstate commerce.

In violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(8).

Forfeiture Notice
(18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c))

Upon conviction for the offense alleged in Count One of this Indictment and pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), the defendant, **Jaterron Williamson**, shall forfeit to the United States of America any firearm, magazine and ammunition involved in or used in the commission of the offense, including, but not limited to, the following: a Smith and Wesson, model M&P shield, 9mm pistol, bearing serial number HDE4846.

A TRUE BILL.

FOREPERSON

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UNITED STATES ATTORNEY

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

UNITED STATES OF AMERICA	§	
	§	
V.	§	**CASE NO. 4:24-CR-260-P**
	§	
JATERRON WILLIAMSON	§	

DEFENDANT'S MOTION TO DISMISS THE INDICTMENT

TO THE HONORABLE MARK PITTMAN, UNITED STATES DISTRICT JUDGE:

COMES NOW, Jaterron Williamson, defendant, by and through his counsel, Assistant Federal Public Defender Joshua Rhodes, and hereby moves this Honorable Court for an order dismissing the indictment in this case because it charges an offense—the "possess" prong of 18 U.S.C. § 922(g)(1)—that Congress had no power to enact. In support therefore, counsel states as follows:

Introduction and Background

The grand jury alleged that, on or about July 9, 2024, Mr. Williamson violated the possession prong of 18 U.S.C. § 922(g)(1) and § 924(a)(8). Section 922(g)(1) provides, in pertinent part:

> (g) It shall be unlawful for any person— (1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year . . . to ship or transport in interstate or foreign commerce, *or possess in or affecting commerce, any firearm* or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

18 U.S.C. § 922(g)(1) (emphasis added).

Legal Standard

Federal Rule of Criminal Procedure 12(b)(1) allows a defendant to "raise by pretrial motion any defense, objection, or request that the court can determine without a trial on the merits." In deciding the motion, the Court should "take the allegations of the indictment as true." *United States v.*

Kay, 359 F.3d 738, 742 (5th Cir. 2004) (quoting *United States v. Hogue*, 132 F.3d 1087, 1089 (5th Cir. 1998)). The balance of this motion thus assumes that the Government will prove, beyond a reasonable doubt, the facts alleged in the indictment.

Argument

This Court should dismiss the indictment because the "possess" prong of 18 U.S.C. § 922(g)(1), as commonly understood and applied, violates the Constitution. First, it exceeds Congress's powers under the interstate commerce clause. Second, it violates the Second Amendment.

A. The "possession" prong of Section 922(g) exceeds Congress's power under the Commerce Clause.

Unlike the states, Congress does not have a general police power. "The Constitution creates a Federal Government of enumerated powers." *United States v. Lopez*, 514 U.S. 549, 552 (1995) (citing U.S. Const., Art. I, § 8, and James Madison, *The Federalist* No. 45, pp. 292–293 (C. Rossiter ed. 1961)). The only enumerated power that might justify laws like § 922(g) is the Commerce Clause: "Congress shall have power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes . . ." U.S. Const., Art. I, § 8.

The Supreme Court has "identified three broad categories of activity that Congress may regulate under its commerce power":

> [1] Congress may regulate the use of the channels of interstate commerce. . . .
>
> [2] Congress is empowered to regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities. . . . [and]
>
> [3] Congress' commerce authority includes the power to regulate those activities having a substantial relation to interstate commerce, . . . *i.e.*, those activities that substantially affect interstate commerce.

Lopez, 514 U.S. at 558–59 (citations omitted).

Section 922(g)'s possession prong is widely understood to reach *any* act of gun possession if the firearm itself, or even any component used to make the firearm, later travels across a state or international boundary line.[1] This construction of the statute reaches a broad swath of non-commercial activity that has no connection at all to any of these authorized areas of regulation.

Mr. Williamson concedes that courts have thus far rejected both the *statutory* argument (that "possess in or affecting commerce" means something other than the object passed across a state or international boundary at some point in the past) and the *constitutional* argument (that the statute exceeds Congress's power). There are many cases rejecting these arguments in the Fifth Circuit and elsewhere. A sampling of those adverse decisions is provided below.

1. *United States v. Bass*, 404 U.S. 336 (1971), is a statutory interpretation case about an abrogated statute:

> 'Any person who—
>
> (1) has been convicted by a court of the United States or of a State or any political subdivision thereof of a felony . . . *and who receives, possesses, or transports in commerce or affecting commerce* . . . *any firearm* shall be fined not more than $10,000 or imprisoned for not more than two years, or both.'

Bass, 404 U.S. at 337 (emphasis added) (quoting Section 1201(a) of Title VII of the Gun Control Act of 1968, Pub. L. 90-351, 82 Stat. 236). The Supreme Court held that the statutory language "in commerce or affecting commerce" applied to the crimes of receipt and possession, not just to transportation. The court then went on to muse—in dicta— that the crime of '"receiv(ing) . . . in

[1] Mr. Williamson does not agree that this is a correct understanding of the statutory language. The common reading of "possess *in or affecting commerce*" elides the distinction between this nexus element and the nexus element that applies to *receiving* firearms—which is properly understood to reach only *commercial* purchase or acquisition: "to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce." By using *different language* to define the federal-nexus element for possession, Congress surely intended a *different meaning* than the nexus element for receipt. *Russello v. United States*, 464 U.S. 16, 23 (1983) ("[Where] Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.") (quoting *United States v. Wong Kim Bo*, 472 F.2d 720, 722 (5th 1972). Moreover, the common interpretation of the statute presents constitutional problems that should be avoided by a more narrow reading.

commerce or affecting commerce,'" could be proven if the evidence "demonstrates that the firearm received has previously traveled in interstate commerce." 404 U.S. at 350.

2. Six years later, the Supreme Court recognized that the holding of *Bass* was limited to the nexus element applying to receipt and possession; the "suggestions" of ways to satisfy the element were "unnecessary" to the decision. *Scarborough v. United States*, 431 U.S. 563, 568 (1977). But *Scarborough* affirmed a conviction under that theory, rejecting the defendant's suggestion that it is "not enough that the Government merely show that the firearms at some time had travelled in interstate commerce." *Id.* at 566. As a matter of statutory interpretation, the Court held that "Congress intended no more than a minimal nexus requirement." *Scarborough*, 431 U.S. at 577.

3. In the first precedential decision to consider the felon-in-possession crime after *Lopez*, the Fifth Circuit held that *Scarborough*'s statutory interpretation holding also foreclosed the constitutional challenge to that theory:

> As we noted on direct appeal, an ATF weapons expert testified at Rawls' trial that the revolver he possessed was manufactured in Massachusetts, so that the revolver's presence in Texas had to result from transport in interstate commerce. This evidence is sufficient to establish a past connection between the firearm and interstate commerce.

United States v. Rawls, 85 F.3d 240, 243 (5th Cir. 1996).

4. Subsequent Fifth Circuit decisions have continued to affirm this reading of § 922(g)'s "in or affecting commerce" language against statutory and constitutional challenges.

5. *Lopez* seemed to, but did not expressly, overrule the more permissive test for federal regulation of gun possession articulated in *Scarborough*. A fair reading of *Scarborough* suggests that the case was concerned solely with statutory interpretation and did not purport to resolve any constitutional issues. *See United States v. Seekins*, 52 F.4th 988, 991 (5th Cir. 2022) (Ho, J., dissenting from denial of rehearing en banc).

6. Supreme Court Justices and judges on lower courts have acknowledged the irreconcilability of *Lopez* and a constitutional reading of *Scarborough*. *See Alderman v. United States*, 131 S. Ct. 700, 702 (2011) (Thomas, J., dissenting from denial of certiorari) ("*Scarborough*, as the lower courts have read it, cannot be reconciled with *Lopez*."); *see also United States* v. *Hill*, 927 F.3d 188, 215 n.10 (4th Cir. 2019) (Agee, J., dissenting) ("While some tension exists between *Scarborough* and the Supreme Court's decision in *Lopez*, the Supreme Court has not granted certiorari on a case that would provide further guidance"); *United States* v. *Kuban*, 94 F.3d 971, 977 (5th Cir. 1996) (DeMoss, J., dissenting) ("[T]he precise holding in *Scarborough* is in fundamental and irreconcilable conflict with the rationale of" *Lopez*.). Judge Ho's opinion dissenting from denial of rehearing en banc in *Seekins* is the most recent and thorough objection to the established view. 52 F.4th at 980–92. "In the en banc poll, seven judges voted in favor of rehearing" "and nine voted against rehearing." *Seekins*, 52 F.4th 988 (5th Cir. 2022).

7. If *Scarborough* is a constitutional decision, then it grants the federal government unlimited power to regulate the affairs of Americans. *See Alderman*, 131 S. Ct. at 702–03 (Thomas, J., dissenting from denial of certiorari) ("The lower courts' reading of *Scarborough*, by trumping the *Lopez* framework, could very well remove any limit on the commerce power."). Any physical object has almost certainly crossed a state line at some point in the past. To hold that this past travel grants Congress a perpetual right to regulate what someone does or does not do with that object is to eliminate any restrictions on Congress's power. Five Justices again rejected the view that the Commerce Clause grants the federal government power "to regulate an individual from cradle to grave." *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 557–58 (2012) (Roberts, J.); *see also id.* at 649 (Scalia, Kennedy, Thomas, Alito, JJ., dissenting).

8. Thus far, the Fifth Circuit has adhered to the view that *Scarborough*'s "minimal nexus" is sufficient both to prove guilt under the statute and to bring any subsequent act of possession within Congress's power to regulate. *United States v. Alcantar*, 733 F.3d 143, 145–46 (5th Cir. 2013).

Mr. Williamson urges the Court to hold that Section 922(g)'s possession prong, as commonly understood and applied, exceeds Congress's enumerated powers.

B. Section 922(g)(1)'s possession prong is unconstitutional under the Second Amendment.

In *United States v. Diaz*, the Fifth Circuit recently upheld § 922(g)(1)'s constitutionality against as-applied and facial challenges brought by a defendant with disqualifying convictions for "vehicle theft, evading arrest, and possessing a firearm as a felon." *See* ___ F.4th ___, 2024 WL 4223684, at *5 (5th Cir. Sept. 18, 2024). Some thieves in Colonial and Founding Era America were subject to the death penalty. *Id.* at *7. "[I]f capital punishment was permissible to respond to theft," the Fifth Circuit reasoned, "then the lesser restriction of permanent disarmament that § 922(g)(1) imposes is also permissible." *Id.* That analysis resolved the as-applied challenge against the defendant, but the Fifth Circuit recognized that the opinion would "not foreclose future as-applied challenges by defendants with different predicate convictions." *Id.* n.4. Mr. Williamson is disqualified from possessing a firearm under § 922(g)(1) based on purported prior convictions for robbery, grand theft, burglary, and possession of controlled substances, but in the Founding Era, many defendants convicted for similar crimes were subject to a term of imprisonment, not the death penalty or forfeiture of estate. And although the Fifth Circuit rejected a facial challenge to § 922(g)(1), Mr. Williamson presses the same claim here to preserve the issue for appellate review.

1. Mr. Williamson challenges § 922(g)(1)'s constitutionality as applied.

Diaz recognized a basic clash between § 922(g)(1) and the Second Amendment. "The plain text of the Second Amendment," the Fifth Circuit determined, "covers the conduct prohibited by § 922(g)(1)." *Id.* at *5. "The burden thus shifts to the government to demonstrate that" applying §

922(g)(1) against Mr. Williamson's "possession of a firearm is 'consistent with the Nation's historical tradition of firearm regulation.'" *Id.* (quoting *N.Y. Rifle & Pistole Ass'n, Inc., v. Bruen*, 597 U.S. 1, 24 (2022)). Since *Diaz* treats the historical practice of harsh felony punishments—execution and estate forfeiture—as equivalent to disarmament, § 922(g)(1) can be constitutionally applied to Mr. Williamson only if his disqualifying convictions would have been subject to those punishments in the Founding Era. *See id.*

Based on counsel's review of discovery and other records, Mr. Williamson appears to have been convicted of the following previous felonies in Texas:

1) Deadly Conduct – Discharge of Firearm at Individual, in violation of Texas Penal Code § 22.05(b)(1);
2) Attempted Harassment of a Public Servant, in violation of Texas Penal Code § 22.11(B); and
3) Unlawful Possession of a Firearm by a Felon; in violation of Texas Penal Code § 46.04(E).

a. Mr. Williamson's deadly conduct conviction is not a disqualifying felony conviction.

Here, the government can make no such showing that applying § 922(g)(1) against Mr. Williamson is consistent with the Nation's historical tradition of firearm regulation. *See Diaz*, 2024 WL 4223684 at *5.

Turning first to Mr. Williamson's prior convictions for deadly conduct – discharge of firearm at an individual, the government cannot show that this conviction, historically, was subject to the harsh felony punishments discussed in *Diaz*. Colonies and early States punished the irresponsible use of firearms with the forfeiture of those firearms. For example, early American justice-of-the-peace manuals empowered justices of the peace to confiscate a person's firearms if that person carried them in a manner that spread fear or terror.[2]

[2] See, *e.g.,* James Davis, *The Office and Authority of a Justice of Peace* 5 (1774) (N.C.); Joseph Greenleaf, *An Abridgment of Burn's Justice of the Peace and Parish Officer* 12-13 (1773) (Mass.); William Waller Hening, *The New Virginia Justice* 18 (1795) (Va.); Eliphalet Ladd, *Burn's Abridgement, Or The*

Because conduct similar to Mr. Williamson's deadly conduct convictions was not subject to capital punishment or estate forfeiture, this felony conviction is insufficient to support the government's burden of showing that applying § 922(g)(1) against Mr. Williamson is consistent with the Nation's historical tradition of firearm regulation. *Diaz*, 2024 WL 4223684 at *5.

b. Mr. Williamson's conviction for attempted harassment of a public servant is not a disqualifying felony conviction.

At the founding, many states did not officially recognize assault or harassment of a public servant as an offense. However, those that forbid such conduct did not subject offenders to capital punishment. For example, in Rhode Island, those "who shall menace, threaten, obstruct, strike, insult, or assault, or in any other manner abuse any officer, civil or military, while in the execution of his office," could be "fined not exceeding two hundred dollars," or "imprisoned not exceeding one year." *See* THE PUBLIC LAWS OF THE STATE OF RHODE-ISLAND AND PROVIDENCE PLANTATIONS 594, Sec. 30 (Jan. 1798). Somewhat similarly, Maryland enacted a law that punished prisoners who committed an assault within a penitentiary by solitary confinement not exceeding, at worst, thirty days, or "whippings, not exceeding thirteen lashes . . . ." THE LAWS OF MARYLAND 476 (Virgil Maxcy, ed., 1811) (Act of November 1809).

Because conduct similar to Mr. Williamson's attempted harassment of a public servant was not subject to capital punishment or estate forfeiture, this felony conviction is also insufficient to support the government's burden of showing that applying § 922(g)(1) against Mr. Williamson is consistent with the Nation's historical tradition of firearm regulation. *Diaz*, 2024 WL 4223684 at *5.

American Justice 22-24 (2d ed. 1792) (N.H.); James Parker, *Conductor Generalis* 12 (1764) (N.J.); James Parker, *Conductor Generalis* 12 (Robert Hodge printing 1788) (N.Y.); James Parker, *Conductor Generalis* 11 (Robert Campbell printing 1792) (Pa.).

2. To preserve the foreclosed claim for further review, Mr. Williamson challenges § 922(g)(1) as facially unconstitutional.

Although the claim is foreclosed, Mr. Williamson challenges *Diaz*'s ruling on § 922(g)(1) facial constitutionality as wrongly decided. The Fifth Circuit held the statute facially constitutional based on the defeat of Mr. Diaz's as-applied challenge. *Id.* at *9 (citing *United States v. Rahimi*, 144 S. Ct. 1889, 1898 (2024)). To preserve the claim for further review, Mr. Williamson challenges § 922(g)(1) as completely inconsistent with the Founding Era approach to the effect of criminal convictions upon an ex-offender's rights. A dozen Founding Era constitutions from the States routinely accounted for the effect of criminal behavior or criminal convictions by stripping ex-offenders of their ability to vote or hold office.[3] Not one did the same for the right to keep and bear arms. The vast majority of state-level constitutions with a Second Amendment analogue, by contrast, recognized the right as belonging broadly to "the people," the state's "citizen," or every "citizen."[4] Louisiana and Tennessee qualified their analogues on racial grounds by restricting the holders of the right to "free white men" and "freemen" respectively, LA. CONST. of 1812, art. III, § 22; TENN. CONST. of 1796, art. XI, § 26, but neither the Second Amendment nor a single state-level analogue premised the right on the absence of a criminal record. An ex-offender might, by virtue of a prior conviction, be ineligible to vote or hold office. There is no historical evidence that the government could constitutionally disarm an ex-offender on the same basis, and the Fifth Circuit's contrary approach in *Diaz* relies on an apples-to-

[3] Mo. Const. of 1820, art. III, §§ 14-15; Ala. Const. of 1819, art. VI, §§ 3-5; Conn. Const. of 1818, art. VI, § 3; Miss. Const. of 1817, art. VI, §§ 2, 4; Ind. Const. of 1816, art. XI, §§ 4-5; La. Const. of 1812, art. VI, §§ 3-4; Ohio Const. of 1802, art. IV, § 4; Ky. Const. of 1799, art. VI, § 3; Tenn. Const. of 1796, art. IX, § 3; Ky. Const. of 1792, art. I, § 2; Vt. Const. of 1786, ch. 2, art. XXXI; Pa. Const. of 1776, § 32.

[4] Mo. Const. of 1820, art. XIII, § 3; Me. Const. of 1819, art. I, § 16; Ala. Const. of 1819, art. I, § 23; Conn. Const. of 1818, art. I, § 17; Miss. Const. of 1817, art. I, § 23; Ind. Const. of 1816, art. I, § 20; Ohio Const. of 1802, art. VIII, § 20; Ky. Const. of 1799, art. X, § 23; Ky. Const. of 1792, art. XII, § 23; Vt. Const. of 1793, ch. 1, art. XVI; Pa. Const. of 1790, art. IX, § 21; Vt. Const. of 1786, ch. 1, art. XVIII; Vt. Const. of 1777, Declaration of Rights art. XV; N.C. Const. of 1776, Declaration of Rights art. XVII; Pa. Const. of 1776, Declaration of Rights art. XIII.

oranges comparison. Section 922(g)(1) turns on the existence of any conviction for "a crime punishable by imprisonment for a term exceeding on year." 18 U.S.C. § 922(g)(1). Living ex-offenders are not similar to the dead, and the historical record provides no support for disarming an ex-offender who had completed any term-of-years sentences.

The historical record thus establishes § 922(g)(1)'s facial infringement on the rights protected by the Second Amendment. "In determining whether a law is facially invalid," this court "must be careful not to go beyond the statute's facial requirements and speculate about 'hypothetical' or 'imaginary' cases." *Turtle Island Foods, S.P.C., v. Strain*, 65 F.4th 211, 220 (5th Cir. 2023). On its face, § 922(g)(1) prohibits Mr. Williamson, a member of "the people" protected by the Second Amendment, from engaging in the exact conduct the Amendment sought to place beyond regulation—the mere possession of a firearm. Since § 922(g)(1) facially prohibits conduct protected by the Second Amendment, the law is facially unconstitutional. *Nat'l Horsemen's Benevolent & Protective Ass'n v. Black*, 107 F.3d 415, 2024 WL 3311366, at *11 (5th Cir. July 5, 2024).

Given the history of firearm regulation in America, there is "no set of circumstances under which" § 922(g)(1) "would be valid." *See Rahimi*, 144 S. Ct. at 1898 (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987)). Founding Era constitutions frequently premised both qualifications for voters and eligibility to hold office on the absence of certain criminal convictions. None incorporated a similar disqualification into the right to keep and bear arms. This Nation, in turn, has no tradition of criminalizing the mere possession of a firearm by an ex-offender like Mr. Williamson. Even in the Founding Era, legislators knew that some offenders convicted for serious crimes would return to society after completing a sentence of imprisonment longer than one year. Since no group of criminals were historically disarmed, no application of § 922(g)(1) can comply with the Second Amendment. That reality makes § 922(g)(1) facially unconstitutional. There is an obvious collision between § 922(g)(1) and the right to bear arms. That collision renders the statute presumptively unconstitutional, and the historical record provides the government with no meaningful opportunity to combat the presumption. Since no analogous tradition of regulation exists, § 922(g)(1) cannot be constitutionally applied against Mr. Williamson or any other American with a criminal record. The Fifth Circuit rejected the force of this claim in *Diaz*, but Mr. Williamson persists here to preserve the claim for review by the *en banc* Fifth Circuit or Supreme Court.

Conclusion

For all these reasons, Mr. Williamson asks that the Court dismiss the Indictment.

Respectfully submitted,

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ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA	
v.	No. 4:24-CR-00260-P
JATERRON WILLIAMSON (01)	

FACTUAL RESUME

I. Plea:

Count One: Possession of a Firearm by a Convicted Felon, in violation of 18 U.S.C. § 922(g)(1) and § 924(a)(8).

II. Maximum Penalties:

The maximum penalties the Court can impose include:

a. imprisonment for a period not to exceed fifteen (15) years;
b. a fine not to exceed $250,000;
c. a term of supervised release not to exceed three (3) years, which may be mandatory under the law and will follow any term of imprisonment. If the defendant violates any condition of supervised release, the Court may revoke such release term and require that the defendant serve an additional period of confinement;
d. a mandatory special assessment of $100;
e. restitution to victims or to the community; and
f. forfeiture of firearms and ammunition.

III. Elements of the Offense:

In order to establish the offense alleged in Count One, the government must prove the following elements beyond a reasonable doubt:

First: That the defendant knowingly possessed a firearm;

Second: Before the defendant possessed the firearm, he had been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, that is a felony offense;

Third: At the time the defendant possessed the firearm, he knew he had been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, that is a felony offense; and

Fourth: The possession of the firearm affected interstate or foreign commerce; that is: before the defendant possessed the charged firearm, it had traveled at some time from one state to another or between any part of the United States and any other country.

IV. Stipulated Facts:

On or about July 9, 2024, in Fort Worth, Texas, the defendant, **Jaterron Williamson**, knowing that he had been convicted of a felony offense, did knowingly possess, in and affecting interstate and foreign commerce, a Smith and Wesson, model M&P shield, 9mm pistol, bearing serial number HDE4846, said firearm having been shipped and transported in interstate commerce.

On that date, Fort Worth Police Department Officers were searching for **Williamson** because he had an active warrant for his arrest. Officers located and arrested him as he was leaving a 7-Eleven convenience store in Fort Worth. During the arrest, **Williamson** advised officers that he was armed with a firearm in his front right pants pocket. From that pocket, officers retrieved the Smith and Wesson pistol. Prior to possessing the firearm, **Williamson** had been convicted of a crime punishable by imprisonment for a term in excess of one year, and he knew he had been convicted of such an offense. Prior to **Williamson** possessing the firearm, it had traveled at some time from one state to another or between any part of the United States and any other country.

AGREED AND STIPULATED on this 17th day of December, 2024.

Jaterron Williamson
JATERRON WILLIAMSON
Defendant

JOSHUA RHODES
Counsel for Defendant

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
Fort Worth Division

UNITED STATES OF AMERICA

v.

JATERRON WILLIAMSON

JUDGMENT IN A CRIMINAL CASE

Case Number: 4:24-CR-00260-P(01)
U.S. Marshal's No.: 42495-511
Justin Beck, Assistant U.S. Attorney
Joshua Rhodes, Attorney for the Defendant

On December 23, 2024 the defendant, JATERRON WILLIAMSON, entered a plea of guilty as to Count One of the Indictment filed on October 9, 2024. Accordingly, the defendant is adjudged guilty of such Count, which involves the following offense:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. §§ 922(g)(l) and 924(a)(8)	Possession of a Firearm by a Convicted Felon	7/09/2024	One

The defendant is sentenced as provided in pages 2 through 5 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 $100.00 as to Count One of the Indictment filed on October 9, 2024.

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 April 24, 2025.

Mark T. Pittman

MARK T. PITTMAN
U.S. DISTRICT JUDGE

Signed April 29, 2025.

IMPRISONMENT

The defendant, JATERRON WILLIAMSON, is hereby committed to the custody of the Federal Bureau of Prisons (BOP) to be imprisoned for a term of **Forty-Six (46) months** as to Count One of the Indictment filed on October 9, 2024. This sentence shall run concurrently with any future sentence which may be imposed in Case Nos. 1833595, 1832815, and 1833600, pending in the 396th Judicial District Court of Tarrant County, Texas, which are related to the instant offense.

The Court recommends to the Bureau of Prisons that the defendant be able to participate in the Residential Drug Abuse Treatment Program, if eligible. The Court further recommends to the Bureau of Prisons that the defendant be incarcerated at a facility as close to the Dallas, Fort Worth, TX area as possible.

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 **Two (2) years** as to Count One of the Indictment filed on October 9, 2024.

While on supervised release, in compliance with the standard conditions of supervision adopted by the United States Sentencing Commission, the defendant shall:

1) The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame;

2) After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed;

3) The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer;

4) The defendant shall answer truthfully the questions asked by the probation officer;

5) The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall 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, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change;

6) The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that he or she observed in plain view;

7) The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation excuses the defendant from doing so. If the defendant does not have full-time employment, he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her employment (such as the position or the job responsibilities), the defendant shall 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, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change;

8) The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer;

9) If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within 72 hours;

10) The defendant shall 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) The defendant shall not act or make an 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 the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk; and,

13) The defendant shall 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 possess illegal controlled substances;

not possess a firearm, destructive device, or other dangerous weapon;

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

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;

take notice that the above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse;

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

participate in outpatient mental health treatment services as directed by the probation officer until successfully discharged, which services may include prescribed medications by a licensed physician, with the defendant contributing to the costs of services rendered (copayment) at a 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 there is no victim other than society at large.

FORFEITURE

Pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), it is hereby ordered that defendant's interest in the following property is condemned and forfeited to the United States: a Smith & Wesson, Model M&P shield, 9-millimeter pistol, bearing Serial No. HDE4846.

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