

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

CLARENCE PEARSON,

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/ Maria Gabriela Vega

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United States Court of Appeals for the Fifth Circuit

No. 25-10558
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 5, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CLARENCE PEARSON,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:24-CR-290-1

Before ELROD, *Chief Judge*, and HIGGINSON and RAMIREZ, *Circuit Judges*.

PER CURIAM:*

Clarence Pearson pleaded guilty to possession of a firearm by a convicted felon, in violation of 18 U.S.C. § 922(g)(1). He was sentenced above the guidelines range to 78 months of imprisonment, followed by three years of supervised release. On appeal, Pearson challenges the substantive reasonableness of his above-guidelines sentence, maintaining that because he

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

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had no criminal culpability by reason of insanity for pointing the firearm at his girlfriend's sleeping child and shooting his girlfriend two times, the district court should not have relied on those facts when balancing 18 U.S.C. § 3553(a)(2)(A). In addition, he contends that the court misadvised him on the interstate commerce element of § 922(g)(1) and that the statute violates the Commerce Clause and the Second Amendment, though he concedes that these challenges are foreclosed.

Although the parties dispute the applicable standard of review for Pearson's substantive reasonableness challenge, it need not be resolved because Pearson cannot prevail even on abuse-of-discretion review. *See United States v. Navarro-Jusino*, 993 F.3d 360, 362 n.2 (5th Cir. 2021). A non-guidelines sentence is substantively unreasonable if it "(1) does not account for a factor that should have received significant weight, (2) gives significant weight to an irrelevant or improper factor, or (3) represents a clear error of judgment in balancing the sentencing factors." *United States v. Gerezano-Rosales*, 692 F.3d 393, 401 (internal quotation marks and citation omitted). Pearson asserts that "the district court extracted retribution for actions for which [he] had no culpability," but our review of the record indicates otherwise. Under the totality of the circumstances, including the significant deference that is given to the district court's consideration of the § 3553(a) factors and the district court's reasons for its sentencing decision, Pearson has failed to show that his 78-month sentence is substantively unreasonable. *See Gall v. United States*, 552 U.S. 38, 51 (2007); *Gerezano-Rosales*, 692 F.3d at 400-01.

Moreover, Pearson correctly concedes that the challenges to his conviction are foreclosed. In short, he was correctly advised on the interstate commerce element of § 922(g)(1), and there is a sufficient factual basis supporting that element. *See United States v. Rawls*, 85 F.3d 240, 242-43 (5th Cir. 1996). And we have held that § 922(g)(1) does not exceed Congress's

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power under the Commerce Clause as presently interpreted. *See United States v. Alcantar*, 733 F.3d 143, 145-46 (5th Cir. 2013). Likewise, we have held that the statute does not facially violate the Second Amendment under *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022). *See United States v. Diaz*, 116 F.4th 458, 467-72 (5th Cir. 2024), *cert. denied*, 145 S. Ct. 2822 (2025).

AFFIRMED.

United States Court of Appeals
for the Fifth Circuit

No. 25-10558

United States Court of Appeals
Fifth Circuit

FILED

April 7, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CLARENCE PEARSON,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:24-CR-290-1

ON PETITION FOR REHEARING

Before ELROD, *Chief Judge*, and HIGGINSON and RAMIREZ, *Circuit Judges*.

PER CURIAM:

IT IS ORDERED that the petition for rehearing is DENIED.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF TEXAS
Fort Worth Division

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

CLARENCE PEARSON

Case Number: 4:24-CR-00290-O(01)
U.S. Marshal's No.: 47453-511
Michael James Ferry, Assistant U.S. Attorney
Devon Judy Sanders, Attorney for the Defendant

On January 8, 2025 the defendant, CLARENCE PEARSON, entered a plea of guilty as to Count One of the Indictment filed on November 14, 2024. Accordingly, the defendant is adjudged guilty of such Count, which involves the following offense:

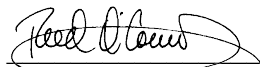
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 922(g)(1) and 924(a)(8)	Possession of a Firearm by a Convicted Felon	09/20/2024	One

The defendant is sentenced as provided in pages 2 through 4 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 November 14, 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 25, 2025.



REED O'CONNOR
U.S. DISTRICT JUDGE

Signed April 25, 2025.

Judgment in a Criminal Case
Defendant: CLARENCE PEARSON
Case Number: 4:24-CR-00290-O(1)

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IMPRISONMENT

The defendant, CLARENCE PEARSON, is hereby committed to the custody of the Federal Bureau of Prisons (BOP) to be imprisoned for a term of **SEVENTY-EIGHT (78) MONTHS** as to Count One of the Indictment filed on November 14, 2024. This sentence shall run concurrently to any future sentence which may be imposed in Case No. 1842918 in the 396th Judicial District Court, Tarrant County, Texas which is related to the instant offense.

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 **THREE (3) YEARS** as to Count One of the Indictment filed on November 14, 2024.

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.

Judgment in a Criminal Case
Defendant: CLARENCE PEARSON
Case Number: 4:24-CR-00290-O(1)

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- (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;

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 rendered (copayment) at the rate of at least \$25 per month.

Judgment in a Criminal Case
Defendant: CLARENCE PEARSON
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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: any firearm, magazine and ammunition involved in or used in the commission of the offense, including, but not limited to, the following Smith & Wesson 38 Special Revolver with Serial No. DNF331.

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