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No. 25-50380,
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United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

May 15, 2026

Lyle W. Cayce
Clerk

No. 25-50380
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

BRAYAM GUERRA LICON,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:24-CR-195-1

Before DAVIS, WILSON, and DOUGLAS, *Circuit Judges.*

PER CURIAM:*

Brayam Guerra Licon appeals his conviction and sentence for receipt or possession of an unregistered firearm, in violation of 26 U.S.C. § 5861(d). As he concedes, his Second Amendment challenge is foreclosed. *See United States v. Peterson*, 161 F.4th 331, 337-41 (5th Cir. 2025), *petition for cert. filed* (U.S. Mar. 9, 2026) (No. 25-1076).

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

No. 25-50380

In addition, we agree with the parties that the written judgment conflicts with the district court's oral pronouncement of sentence. *See United States v. Schultz*, 88 F.4th 1141, 1146-47 (5th Cir. 2023). In the oral pronouncement, the district court ordered the sentence to run concurrently with any sentence issued in a then-pending case in Ector County. The written judgment states that the sentence is to run consecutively to any sentence imposed in the Ector County case.

Accordingly, the judgment is AFFIRMED in part, VACATED in part, and REMANDED to the district court to amend the written judgment to conform with the oral pronouncement.



KeyCite Red Flag

Unconstitutional or Preempted Held Unconstitutional by Silencer Shop Foundation v. Bureau of Alcohol, N.D.Tex., Aug. 05, 2026



KeyCite Yellow Flag

Proposed Legislation

United States Code Annotated

Title 26. Internal Revenue Code (Refs & Annos)

Subtitle E. Alcohol, Tobacco, and Certain Other Excise Taxes (Refs & Annos)

Chapter 53. Machine Guns, Destructive Devices, and Certain Other Firearms (Refs & Annos)

Subchapter B. General Provisions and Exemptions (Refs & Annos)

Part I. General Provisions

26 U.S.C.A. § 5841, I.R.C. § 5841

§ 5841. Registration of firearms

Currentness

(a) Central registry.--The Secretary shall maintain a central registry of all firearms in the United States which are not in the possession or under the control of the United States. This registry shall be known as the National Firearms Registration and Transfer Record. The registry shall include--

(1) identification of the firearm;

(2) date of registration; and

(3) identification and address of person entitled to possession of the firearm.

(b) By whom registered.--Each manufacturer, importer, and maker shall register each firearm he manufactures, imports, or makes. Each firearm transferred shall be registered to the transferee by the transferor.

(c) How registered.--Each manufacturer shall notify the Secretary of the manufacture of a firearm in such manner as may by regulations be prescribed and such notification shall effect the registration of the firearm required by this section. Each importer, maker, and transferor of a firearm shall, prior to importing, making, or transferring a firearm, obtain authorization in such manner as required by this chapter or regulations issued thereunder to import, make, or transfer the firearm, and such authorization shall effect the registration of the firearm required by this section.

(d) Firearms registered on effective date of this Act.--A person shown as possessing a firearm by the records maintained by the Secretary pursuant to the National Firearms Act in force on the day immediately prior to the effective date of the National Firearms Act of 1968 shall be considered to have registered under this section the firearms in his possession which are disclosed by that record as being in his possession.

(e) Proof of registration.--A person possessing a firearm registered as required by this section shall retain proof of registration which shall be made available to the Secretary upon request.

CREDIT(S)

(Added Pub.L. 90-618, Title II, § 201, Oct. 22, 1968, 82 Stat. 1229; amended Pub.L. 94-455, Title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Notes of Decisions (52)

26 U.S.C.A. § 5841, 26 USCA § 5841

Current through P.L. 119-102. Some statute sections may be more current, see credits for details.

 KeyCite Yellow Flag
Proposed Legislation

United States Code Annotated

Title 26. Internal Revenue Code (Refs & Annos)

Subtitle E. Alcohol, Tobacco, and Certain Other Excise Taxes (Refs & Annos)

Chapter 53. Machine Guns, Destructive Devices, and Certain Other Firearms (Refs & Annos)

Subchapter B. General Provisions and Exemptions (Refs & Annos)

Part I. General Provisions

26 U.S.C.A. § 5845, I.R.C. § 5845

§ 5845. Definitions

Effective: February 1, 2019

Currentness

For the purpose of this chapter--

(a) Firearm.--The term “firearm” means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in section 921 of title 18, United States Code); and (8) a destructive device. The term “firearm” shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Secretary finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

(b) Machinegun.--The term “machinegun” means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also

include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

(c) Rifle.--The term “rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

(d) Shotgun.--The term “shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

(e) Any other weapon.--The term “any other weapon” means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

(f) Destructive device.--The term “destructive device” means (1) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device; (2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting

purposes; and (3) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subparagraphs (1) and (2) and from which a destructive device may be readily assembled. The term “destructive device” shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 7684(2), 7685, or 7686 of title 10, United States Code; or any other device which the Secretary finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

(g) Antique firearm.--The term “antique firearm” means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(h) Unserviceable firearm.--The term “unservicable firearm” means a firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

(i) Make.--The term “make”, and the various derivatives of such word, shall include manufacturing (other than by one qualified to engage in such business under this chapter), putting together, altering, any combination of these, or otherwise producing a firearm.

(j) Transfer.--The term “transfer” and the various derivatives of such word, shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

(k) Dealer.--The term “dealer” means any person, not a manufacturer or importer, engaged in the business of selling, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

(l) Importer.--The term “importer” means any person who is engaged in the business of importing or bringing firearms into the United States.

(m) Manufacturer.--The term “manufacturer” means any person who is engaged in the business of manufacturing firearms.

CREDIT(S)

(Added Pub.L. 90-618, Title II, § 201, Oct. 22, 1968, 82 Stat. 1230; amended Pub.L. 94-455, Title XIX, § 1906(b)(13)(A), (J), Oct. 4, 1976, 90 Stat. 1834, 1835; Pub.L. 99-308, § 109, May 19, 1986, 100 Stat. 460; Pub.L. 115-232, Div. A, Title VIII, § 809(h) (3), Aug. 13, 2018, 132 Stat. 1842.)

Notes of Decisions (304)

26 U.S.C.A. § 5845, 26 USCA § 5845

Current through P.L. 119-102. Some statute sections may be more current, see credits for details.



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Chapter 53. Machine Guns, Destructive Devices, and Certain Other Firearms (Refs & Annos)

Subchapter C. Prohibited Acts (Refs & Annos)

26 U.S.C.A. § 5861, I.R.C. § 5861

§ 5861. Prohibited acts

Currentness

It shall be unlawful for any person--

(a) to engage in business as a manufacturer or importer of, or dealer in, firearms without having paid the special (occupational) tax required by section 5801 for his business or having registered as required by section 5802; or

(b) to receive or possess a firearm transferred to him in violation of the provisions of this chapter; or

(c) to receive or possess a firearm made in violation of the provisions of this chapter; or

(d) to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record; or

(e) to transfer a firearm in violation of the provisions of this chapter; or

(f) to make a firearm in violation of the provisions of this chapter; or

(g) to obliterate, remove, change, or alter the serial number or other identification of a firearm required by this chapter; or

(h) to receive or possess a firearm having the serial number or other identification required by this chapter obliterated, removed, changed, or altered; or

(i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or

(j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter; or

(k) to receive or possess a firearm which has been imported or brought into the United States in violation of section 5844; or

(l) to make, or cause the making of, a false entry on any application, return, or record required by this chapter, knowing such entry to be false.

CREDIT(S)

(Added Pub.L. 90-618, Title II, § 201, Oct. 22, 1968, 82 Stat. 1234.)

Notes of Decisions (567)

26 U.S.C.A. § 5861, 26 USCA § 5861

Current through P.L. 119-102. Some statute sections may be more current, see credits for details.

United States Code Annotated

Title 26. Internal Revenue Code (Refs & Annos)

Subtitle E. Alcohol, Tobacco, and Certain Other Excise Taxes (Refs & Annos)

Chapter 53. Machine Guns, Destructive Devices, and Certain Other Firearms (Refs & Annos)

Subchapter D. Penalties and Forfeitures (Refs & Annos)

26 U.S.C.A. § 5871, I.R.C. § 5871

§ 5871. Penalties

Currentness

Any person who violates or fails to comply with any provision of this chapter shall, upon conviction, be fined not more than \$10,000, or be imprisoned not more than ten years, or both.

CREDIT(S)

(Added Pub.L. 90-618, Title II, § 201, Oct. 22, 1968, 82 Stat. 1234; amended Pub.L. 98-473, Title II, § 227, Oct. 12, 1984, 98 Stat. 2030.)

Notes of Decisions (49)

26 U.S.C.A. § 5871, 26 USCA § 5871

Current through P.L. 119-102. Some statute sections may be more current, see credits for details.