

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

T.J. AGUILAR,

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/ Christy Posnett Martin

JASON HAWKINS
Federal Public Defender
Northern District of Texas
TX State Bar No. 00759763
525 Griffin Street, Suite 629
Dallas, TX 75202
(214) 767-2746
(214) 767-2886 Fax

CHRISTY POSNETT MARTIN **
Assistant Federal Public Defender
Northern District of Texas
PA State Bar No. 83421
525 Griffin Street, Suite 629
Dallas, TX 75202
(214) 767-2746
(214) 767-2886

INDEX TO APPENDICES

Appendix A Opinion of Fifth Circuit, United States v. Aguilar, No. 26-10076, 2026 WL 2126855 (5th Cir. July 23, 2026)(unpublished).

Appendix B Judgment and Sentence of the United States District Court for the Northern District of Texas, United States v. Aguilar, No. 5:25-cr-81 (Jan. 22, 2026).

Appendix C Factual Resume

APPENDIX A

United States Court of Appeals for the Fifth Circuit

No. 26-10076
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 23, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

T.J. AGUILAR,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:25-CR-81-1

Before SMITH, SOUTHWICK, and OLDHAM, *Circuit Judges*.

PER CURIAM:*

T.J. Aguilar appeals his conviction and sentence for receipt of a firearm by a person under felony indictment in violation of 18 U.S.C. § 922(n). The Government moves for summary affirmance or, alternatively, an extension of time to file a brief.

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

No. 26-10076

First, Aguilar argues that § 922(n) is unconstitutional under the Second Amendment in the light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022), but that argument is foreclosed. *See United States v. Quiroz*, 125 F.4th 713, 716-20, 723-25 (5th Cir.), *cert. denied*, 146 S. Ct. 146 (2025). Second, he contends that § 922(n) exceeds Congress’s power under the Commerce Clause, but that argument is unavailing under plain error review. *See United States v. Jones*, 88 F.4th 571, 572 (5th Cir. 2023); *United States v. Alcantar*, 733 F.3d 143, 145 (5th Cir. 2013). Finally, Aguilar asserts the district court erred in applying an enhanced offense level under U.S.S.G. § 2K2.1(a)(4) based on the commentary’s definition of “large capacity magazine,” but that argument is foreclosed. *See United States v. Martin*, 119 F.4th 410 (5th Cir. 2024).

The Government’s motion for summary affirmance is GRANTED and its motion for extension of time to file brief is DENIED AS MOOT. The judgment of the district court is AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS LUBBOCK DIVISION

UNITED STATES OF AMERICA

v.

TJ AGUILAR§ **JUDGMENT IN A CRIMINAL CASE**

§

§

§ Case Number: **5:25-CR-00081-H-BV(1)**§ USM Number: **91138-511**§ **Kristen Ayers**

§ Defendant's Attorney

THE DEFENDANT:

☐	pleaded guilty to count(s)	
☒	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	1 of the indictment filed June 11, 2025.
☐	pleaded nolo contendere to count(s) which was accepted by the court	
☐	was found guilty on count(s) after a plea of not guilty	

The defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense

18 U.S.C. §§ 922(n), 924(a)(1)(D) - ILLEGAL RECEIPT OF A FIREARM BY A PERSON UNDER INDICTMENT

Offense Ended

01/31/2025

Count

1

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

- ☐ The defendant has been found not guilty on count(s)
- ☒ Remaining count(s) are dismissed on the motion of the United States

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

January 22, 2026

Date of Imposition of Judgment

Signature of Judge

James Wesley Hendrix
United States District Judge

Name and Title of Judge

January 22, 2026

Date

DEFENDANT: TJ AGUILAR
CASE NUMBER: 5:25-CR-00081-H-BV(1)

IMPRISONMENT

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

46 months as to count 1. This sentence shall run consecutively to any sentence imposed in the following cases:

- Case Nos. CC-2023-CR-2738, CC-2023-CR-2845, and CC-2024-CR-1537, all pending in the County Court at Law No. 2, Lubbock County, Texas; and
- Case No. DC-2024-CR-2003 pending in the 140th Judicial District Court for Lubbock County, Texas.

This sentence shall also run concurrently with any sentence imposed in Case Nos. PFF-2025-MAG-0342, PFM-2025-MAG-0361, and PFM-2025-MAG-0362, all pending in the Magistrate Court, Lubbock County, Texas

- ☒ The court makes the following recommendations to the Bureau of Prisons: Incarceration at FCI El Reno, Oklahoma, if medium security classification, or USP Tucson, Arizona, if high security classification.

The Court recommends that, while incarcerated, the defendant receive appropriate substance-abuse and mental-health treatment, but the Court did not lengthen the defendant's prison term to promote rehabilitation. *See Tapia v. United States*, 564 U.S. 319 (2011).

- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:

☐ at ☐ a.m. ☐ p.m. on

☐ as notified by the United States Marshal.

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

- ☐ before 2 p.m. on
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By
DEPUTY UNITED STATES MARSHAL

DEFENDANT: TJ AGUILAR
CASE NUMBER: 5:25-CR-00081-H-BV(1)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **Three (3) years.**

MANDATORY CONDITIONS

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

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

DEFENDANT: TJ AGUILAR
CASE NUMBER: 5:25-CR-00081-H-BV(1)

STANDARD CONDITIONS OF SUPERVISION

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

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

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at www.txnp.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: TJ AGUILAR

CASE NUMBER: 5:25-CR-00081-H-BV(1)

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall not communicate, or otherwise interact, with any known member of a gang, including but not limited to the Never Tell a Word gang, without first obtaining the permission of the probation officer.
2. The defendant shall participate in an outpatient program approved by the probation officer for treatment of narcotic, 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, and contributing to the costs of services rendered (copayment) at the rate of at least \$25.00 per month.

DEFENDANT: TJ AGUILAR
CASE NUMBER: 5:25-CR-00081-H-BV(1)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments page.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$100.00	\$.00	\$.00	\$.00	\$.00

- ☐ The determination of restitution is deferred until *An Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

- ☐ Restitution amount ordered pursuant to plea agreement \$
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the schedule of payments page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- | | | |
|---|-------------------------------|--|
| ☐ the interest requirement is waived for the | ☐ fine | ☐ restitution |
| ☐ the interest requirement for the | ☐ fine | ☐ restitution is modified as follows: |

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: TJ AGUILAR
CASE NUMBER: 5:25-CR-00081-H-BV(1)

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A** ☒ Lump sum payments of \$ 100.00 due immediately, balance due
☐ not later than _____, or
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B** ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C** ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D** ☐ Payment in equal 20 (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E** ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F** ☒ Special instructions regarding the payment of criminal monetary penalties:
It is ordered that the Defendant shall pay to the United States a special assessment of \$100.00 for Count 1, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several
See above for Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVT assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

APPENDIX C

SEP 22 2025 PM 2:33
FILED - USDC - NDTX - LU

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

UNITED STATES OF AMERICA

v.

NO. 5:25-CR-081-H

TJ AGUILAR

FACTUAL RESUME

In support of TJ Aguilar's plea of guilty to the offense in Count One of the indictment, Aguilar, the defendant, Kristen Ayers, the defendant's attorney, and the United States of America (the government) stipulate and agree to the following:

ELEMENTS OF THE OFFENSE

To prove the offense alleged in Count One of the indictment, charging a violation of 18 U.S.C. §§ 922(n), 924(a)(1)(D), that is, Illegal Receipt of a Firearm by a Person Under Indictment, the government must prove each of the following elements beyond a reasonable doubt:¹

Illegal Receipt of a Firearm by a Person Under Indictment:

- First.* That the defendant willfully received the firearm described in the indictment;
- Second.* That at the time the defendant received the firearm, the defendant was under indictment for a crime punishable by imprisonment for a term exceeding one year;
- Third.* That at the time the defendant received the firearm, the defendant knew he was under indictment for a crime punishable by

¹ Fifth Circuit Pattern Jury Instruction 2.43D (5th Cir. 2024) (modified to reflect elements for 922(n)); *United States v. Baker*, No. 3:20-CR-97-HTW-LGI, 2022 WL 17338450, at *3 (S.D. Miss. Nov. 30, 2022), *aff'd*, No. 23-60010, 2023 WL 7206382 (5th Cir. Nov. 1, 2023).

imprisonment for a term exceeding one year; and

Fourth: That the firearm received was shipped or transported in interstate or foreign commerce; that is, before the defendant received 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.

STIPULATED FACTS

1. TJ Aguilar, the defendant, agrees and admits that in or about October 2024, in the Lubbock Division of the Northern District of Texas, and elsewhere, he, who was then under indictment for a crime punishable by imprisonment for a term exceeding one year, did willfully receive a firearm, to wit: a Glock, model 17, 9mm caliber semiautomatic pistol, serial number BGFA279, said firearm having been shipped and transported in interstate or foreign commerce, in violation of Title 18, United States Code, Sections 922(n) and 924(a)(1)(D).

2. On August 27, 2024, Aguilar was indicted in case number DC-2024-CR-2003 for Aggravated Assault with a Deadly Weapon, a crime punishable by imprisonment for a term exceeding one year. On August 30, 2024, Aguilar was arraigned on that charge and pleaded not guilty. The indictment was read to Aguilar at his arraignment. On October 4, 2024, Aguilar's bond was reduced, and he was released from custody on or about October 9, 2024. Aguilar admits and agrees that as of August 27, 2024, he was under indictment for a crime punishable by imprisonment for a term exceeding one year and that he knew he was under indictment for a crime punishable by imprisonment for a term exceeding one year.

3. On January 31, 2025, Lubbock Police Department (LPD) officers observed a silver 1990's model Lincoln Continental come to a stop at the intersection of N. Belmont Avenue and Erskine Street without its turn signal illuminated. As the officer pulled up behind the vehicle at the stop sign, the driver illuminated the vehicle's left-hand turn signal and proceeded to turn left through the intersection. The officer initiated a traffic stop, having observed the vehicle fail to signal continuously for 100 feet before a turn—a violation of the Texas Transportation Code.

4. The officer identified the driver and sole occupant of the vehicle as TJ Aguilar. While speaking with Aguilar, the officer smelled an odor of marijuana coming from inside the vehicle, giving the officer probable cause to search the vehicle. Upon the arrival of additional officers, Aguilar was detained, and a search of the vehicle was conducted.

5. The search of the vehicle revealed a Glock, model 17, 9mm caliber semiautomatic pistol, serial number BGFA279, located under the driver's seat of the vehicle. The Glock firearm contained a fully loaded, 31 round, Glock extended magazine. In addition to the Glock firearm, the search revealed a fully loaded, Glock 19X style, 17-round magazine, located in the vehicle's center console.

6. On June 16, 2025, the ATF TFO arrested Aguilar on his federal indictment. The TFO informed Aguilar of his constitutional rights and Aguilar agreed to waive those rights and speak with the TFO. Aguilar admitted that he had received the Glock 17 (BGFA279) in October 2024 after he was released from LCDC. Aguilar said that he paid

about \$400-\$500 for it. Aguilar admits that he willfully received the Glock 17 in October 2024.

7. An ATF SA and Interstate Nexus Expert was consulted about the Glock 17, serial number BGFA279, and advised that the Glock firearm was not manufactured in Texas and, therefore, must have traveled in foreign or interstate commerce before Aguilar received it.

8. The defendant agrees that the defendant committed all the essential elements of the offense. This factual resume is not intended to be a complete accounting of all the facts and events related to the offense charged in this case. The limited purpose of this statement of facts is to demonstrate that a factual basis exists to support the defendant's guilty plea to Count One of the indictment.

AGREED TO AND STIPULATED on this 19 day of September, 2025.

NANCY E. LARSON
ACTING UNITED STATES ATTORNEY

T.J. Aguilar

TJ AGUILAR
Defendant

Kristen Ayers
KRISTEN AYERS
Attorney for Defendant

Russell E. Mayne
f RUSSELL E. MAYNE
Special Assistant United States Attorney
Texas State Bar No. 24116733
1205 Texas Avenue, Suite 700
Lubbock, Texas 79401
Tel: 806-472-7351
Fax: 806-472-7394
Email: russell.mayne@usdoj.gov