

United States Court of Appeals for the Fifth Circuit

No. 22-10375
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 23, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MARK ANTHONY REYNA,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:21-CR-80-1

Before JONES, HAYNES, and OLDHAM, *Circuit Judges*.

PER CURIAM:*

Mark Anthony Reyna appeals his conviction for possessing a firearm after a felony conviction, in violation of 18 U.S.C. § 922(g)(1). Citing *National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012), Reyna argues for the first time on appeal that § 922(g)(1) exceeds the scope

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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of Congress's power under the Commerce Clause and is thus unconstitutional. He specifically contends that Congress's power under the Commerce Clause authorizes it to regulate only commercial activity and that the mere travel of an object through interstate commerce is not, by itself, a commercial act.

Reyna concedes that his claim is foreclosed by circuit precedent, and he raises the issue to preserve it for further review. The Government has filed an unopposed motion for summary affirmance and an alternative request for an extension of time to file its brief. The parties are correct that Reyna's claim is foreclosed. *See United States v. Alcantar*, 733 F.3d 143, 145-46 (5th Cir. 2013); *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Accordingly, the motion for summary affirmance is GRANTED, the alternative motion is DENIED, and the judgment is AFFIRMED.