

United States Court of Appeals for the Fifth Circuit

No. 25-10284
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 25, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CHOCKIE LEE HIGHTOWER,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:24-CR-194-1

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

PER CURIAM:*

Chockie Lee Hightower appeals his guilty plea conviction for a single count of possession of a stolen firearm in violation of 18 U.S.C. § 922(j). For the first time on appeal, he contends that courts have incorrectly decided that possessory offenses under § 922 require no more than the minimal nexus that the firearm has been, at some time, in interstate commerce. Alternatively, he

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

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argues that § 922(j), as presently interpreted, is unconstitutional because it exceeds the scope of Congress's authority under the Commerce Clause. He asserts that his guilty plea therefore was invalid because there was a deficient factual basis.

We do not address the appeal waiver in Hightower's plea agreement because the Government has opted not to assert its applicability. Instead, the Government has filed a motion for summary affirmance or, alternatively, for an extension of time to file its brief. The motion for summary affirmance is unopposed: Hightower concedes that his claims are foreclosed by precedent and asserts that he has raised them to preserve them for further review.

Hightower is correct that his claims are foreclosed. *See Scarborough v. United States*, 431 U.S. 563, 575 (1977); *United States v. Alcantar*, 733 F.3d 143, 145-46 (5th Cir. 2013); *United States v. Luna*, 165 F.3d 316, 319-22 (5th Cir. 1999). Thus, summary affirmance is proper. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Therefore, the Government's motion for summary affirmance is GRANTED, its alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.