

United States Court of Appeals for the Fifth Circuit

No. 25-10935
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 17, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JAVIER RUBIO-CASTILLO,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:25-CR-37-1

Before KING, HAYNES, and HO, *Circuit Judges.*

PER CURIAM:*

Javier Rubio-Castillo pleaded guilty to possessing a firearm by an alien having been admitted to the United States under a nonimmigrant visa, in violation of 18 U.S.C. § 922(g)(5)(B). The district court sentenced him to 63 months of imprisonment and three years of supervised release. On appeal, he argues, for the first time, that his statute of conviction violates the Second

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

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Amendment on its face and as applied to him in light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022). He also argues that § 922(g), as presently interpreted, exceeds Congress’s power under the Commerce Clause. The Government has filed an unopposed motion for summary affirmance, or alternatively, for an extension of time to file a brief.

The Government’s unopposed motion for summary affirmance is GRANTED, the alternative motion for an extension of time is DENIED as moot, and the judgment of the district court is AFFIRMED.