

United States Court of Appeals for the Fifth Circuit

No. 25-11231
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 8, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JAMES DUNCAN,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:23-CR-74-1

Before SMITH, HIGGINSON, and WILSON, *Circuit Judges*.

PER CURIAM:*

James Duncan appeals the judgment revoking supervised release and sentencing him to 11 months of imprisonment. Relying on *United States v. Haymond*, 588 U.S. 634 (2019), Duncan maintains that 18 U.S.C. § 3583(g) is unconstitutional because it requires revocation of supervised release and imposition of a term of imprisonment without affording the defendant the constitutionally guaranteed right to a jury trial or requiring proof beyond a

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

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reasonable doubt. Duncan acknowledges that his challenge is foreclosed by *United States v. Garner*, 969 F.3d 550 (5th Cir. 2020). The government has filed an unopposed motion for summary affirmance or, alternatively, for an extension of time to file its brief.

In *Garner*, we rejected the theory that Duncan has asserted and held that § 3583(g) is not unconstitutional under *Haymond*. *See Garner*, 969 F.3d at 551-53. Thus, Duncan's sole issue on appeal is foreclosed, and summary affirmance is proper. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). The motion for summary affirmance is GRANTED, the alternative motion for an extension is DENIED, and the judgment is AFFIRMED.