

United States Court of Appeals for the Fifth Circuit

No. 23-11011
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 6, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MIGUEL TEJADA-CRUZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:21-CR-42-1

Before DUNCAN, WILSON, and DOUGLAS, *Circuit Judges.*

PER CURIAM:*

Miguel Tejada-Cruz pleaded guilty to two counts of possession of a firearm by a felon and one count of possession with intent to distribute a controlled substance. He was sentenced to a total of 75 months of imprisonment and three years of supervised release. On appeal, he first presents a preserved argument that inchoate offenses are not included within

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

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the definition of a “controlled substance offense” in U.S.S.G. § 4B1.2 (2021). Second, he presents two unpreserved constitutional challenges to 18 U.S.C. § 922(g)(1) under the Commerce Clause and under the Second Amendment based on *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022). The Government has filed an unopposed motion for summary affirmance or, in the alternative, for an extension of time to file its brief.

Tejada-Cruz correctly concedes that his arguments are foreclosed under the applicable standards of review. *See United States v. Vargas*, 74 F.4th 673, 680-90 (5th Cir. 2023) (en banc), *cert. denied*, 144 S. Ct. 828 (2024); *United States v. Jones*, 88 F.4th 571, 573-74 (5th Cir. 2023), *cert. denied*, 2024 WL 1143799 (U.S. Mar. 18, 2024) (No. 23-6769). Therefore, summary disposition is appropriate. *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 of time is DENIED, and the district court’s judgment is AFFIRMED.