

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

**For the Seventh Circuit
Chicago, Illinois 60604**

Submitted May 2, 2024

Decided May 6, 2024

Before

DIANE S. SYKES, *Chief Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 23-1913

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

TYRONE GADDIS,
Defendant-Appellant.

Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 1:21-CR-00576(1)

Sharon Johnson Coleman,
Judge.

ORDER

Tyrone Gaddis pleaded guilty to possessing a firearm as a felon. *See* 18 U.S.C. §§ 922(g)(1), 924. The district judge sentenced Gaddis to a within-guidelines sentence of 96 months in prison and 3 years of supervised release. Gaddis has filed a notice of appeal, but his appointed counsel believes that the appeal is frivolous and seeks to withdraw. *See Anders v. California*, 386 U.S. 738, 744 (1967). Gaddis has not responded to counsel's motion to withdraw. *See* CIR. R. 51(b). Based on our review of counsel's submission, and following our practice in similar appeals, we will suspend this appeal to determine if it presents a nonfrivolous issue.

Counsel considers whether Gaddis may reasonably challenge the constitutionality of § 922(g)(1) in light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022) (holding that restrictions on possessing firearms are constitutional only if there is a tradition of such regulation in U.S. history). We have been holding appeals challenging the constitutionality of § 922(g) in abeyance pending the outcomes of *United States v. Rahimi*, No. 22-915 (argued Nov. 7, 2023) (considering whether § 922(g)(8), which bars the possession of firearms by persons subject to domestic-violence restraining orders, violates the Second Amendment) and *United States v. Prince*, No. 23-3155 (7th Cir.) (considering constitutionality of § 922(g)(1) in light of *Bruen*). See, e.g., *United States v. Pangborn*, No. 23-3105 (7th Cir. Dec. 19, 2023) (suspending appeal pending resolution of *Rahimi*); *United States v. Mowen*, No. 23-1890 (7th Cir. Feb. 23, 2024) (suspending appeal pending resolution of *Prince*).

We acknowledge that Gaddis did not preserve this challenge in the district court, so our review would be for plain error. See *Greer v. United States*, 593 U.S. 503, 507 (2021). And, as counsel observes, under the state of the law *today*, any error is not plain. Still, the outcome of *Rahimi* or *Prince* might allow Gaddis to argue that the district judge plainly erred in this case. See *Henderson v. United States*, 568 U.S. 266, 269 (2013) (error may become “plain” under precedents released while appeal is pending). For that reason, we recently suspended the appeal sua sponte in *United States v. Taylor*, an *Anders* case also raising a potential plain-error challenge to § 922(g)(1). No. 22-3298 (7th Cir. Mar. 8, 2024). We also note that Gaddis does not face another, concurrent sentence that might obviate a plain-error challenge to § 922(g). Cf. *United States v. Leija-Sanchez*, 820 F.3d 899, 902 (7th Cir. 2016) (concurrent sentences can justify refusal to review possible plain error in one sentence.) Thus, consistent with our practice in these cases, we will hold this appeal in abeyance pending the outcome of *Rahimi* or *Prince*.

Proceedings in this appeal are SUSPENDED pending resolution of *Rahimi* or *Prince*. Counsel shall file a statement of position within 14 days of a decision in one of these cases, whichever is decided first, stating whether counsel intends to withdraw the *Anders* motion or supplement the *Anders* brief, or whether a further stay is appropriate.