

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

\_\_\_\_\_  
No. 17-10311  
Summary Calendar  
\_\_\_\_\_

United States Court of Appeals  
Fifth Circuit  
**FILED**  
October 6, 2017  
Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

LOUIS LAVARIS, JR.,

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 6:16-CR-26-1  
\_\_\_\_\_

Before KING, ELROD, and HIGGINSON, Circuit Judges.

PER CURIAM:\*

Louis Lavaris, Jr., appeals his conviction and the 96-month sentence imposed after he pleaded guilty to possession of a firearm by a convicted felon. He asserts that the Government failed to state a federal offense in his indictment because 18 U.S.C. § 922(g)(1) is unconstitutional on its face in that the element “in or affecting commerce” cannot be satisfied merely by the

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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possession of a firearm that had traveled in interstate commerce at some point in time.

As Lavaris concedes, his argument is foreclosed by *United States v. Daugherty*, 264 F.3d 513 (5th Cir. 2001), in which we held that “the constitutionality of § 922(g) is not open to question,” *id.* at 518 (internal quotation marks and citation omitted), and *United States v. Luna*, 165 F.3d 316, 319-22 (5th Cir. 1999), in which we concluded that § 922(j) was similar to § 922(g) and the phrase “shipped or transported in, interstate or foreign commerce,” provided “the requisite nexus to commerce” to allow Congress to exercise its powers under the Commerce Clause. Accordingly, Lavaris’s motion for summary disposition is GRANTED and the judgment is AFFIRMED.