

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

United States Court of Appeals
Fifth Circuit

FILED

April 26, 2018

Lyle W. Cayce
Clerk

No. 17-11009
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

v.

REYNALDO RENDON, JR., also known as Rey Reynold, also known as Rey Rendon,

Defendant–Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:17-CR-19-1

Before JOLLY, OWEN, and HAYNES, Circuit Judges.

PER CURIAM:*

Reynaldo Rendon, Jr. pleaded guilty to being a felon in possession of a firearm and ammunition. He appeals his conviction, arguing that 18 U.S.C. § 922(g)(1) is unconstitutional. The Government has filed an unopposed motion for summary affirmance arguing that Rendon’s challenge is foreclosed by circuit precedent or, alternatively, requesting an extension of time to file its

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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brief on the merits. The Government does not invoke the waiver provision contained in the plea agreement. *See United States v. Story*, 439 F.3d 226, 230-31 (5th Cir. 2006).

Rendon's argument that § 922(g)(1) is unconstitutional because it exceeds the scope of Congress's power under the Commerce Clause is foreclosed. *See United States v. Alcantar*, 733 F.3d 143, 145-46 (5th Cir. 2013); *United States v. Daugherty*, 264 F.3d 513, 518 (5th Cir. 2001); *United States v. De Leon*, 170 F.3d 494, 499 (5th Cir. 1999). He concedes as much and raises the argument to preserve it for further review. Accordingly, the Government's motion for summary affirmance is GRANTED, the alternative motion for an extension of time to file a brief is DENIED as unnecessary, and the judgment of the district court is AFFIRMED.