

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

UNITED STATES OF AMERICA

vs.

Case No. 3:23-cr-38-MMH-LLL

DONDRE SHAUNTRELL ROSIER

O R D E R

THIS CAUSE is before the Court on Defendant’s Motion to Dismiss Count Three of Indictment and Memorandum of Law (Doc. 24; Motion), filed on August 18, 2023. The Government filed a response in opposition to the Motion on September 1, 2023. See United States’ Response in Opposition to Defendant’s Motion to Dismiss (Doc. 27). Accordingly, this matter is ripe for review.

In the Motion, Defendant requests that the Court dismiss Count Three of the Indictment (Doc. 1), which charges him with knowingly possessing a firearm after being convicted of a felony offense, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). See Motion at 1. Defendant argues that § 922(g)(1) “unconstitutionally infringes on his Second Amendment right to ‘keep and bear arms.’” Id. For the reasons expressed by the undersigned’s colleagues in United States v. Kirby, No. 3:22-cr-26-TJC-LLL, 2023 WL 1781685, at *1–3 (M.D. Fla. Feb. 6, 2023), and United States v. Vasquez, No. 8:21-cr-62-CEH-SPF, 2023 WL

4935936, at *2–4 (M.D. Fla. July 10, 2023), report and recommendation adopted, No. 8:21-cr-62-CEH-SPF, 2023 WL 4931898 (M.D. Fla. Aug. 2, 2023), the Court finds that Defendant’s argument remains foreclosed by the Eleventh Circuit’s decision in United States v. Rozier, 598 F.3d 768, 770–71 (11th Cir. 2010). Defendant also asserts that § 922(g)(1) “exceeds Congress’s authority under the Commerce Clause, both facially and as-applied here.” Motion at 1. But, as Defendant acknowledges, Eleventh Circuit precedent requires this Court to reject his Commerce Clause challenge. See United States v. Wright, 607 F.3d 708, 715–16 (11th Cir. 2010); United States v. Scott, 263 F.3d 1270, 1271–74 (11th Cir. 2001) (per curiam). Accordingly, it is

ORDERED:

Defendant’s Motion to Dismiss Count Three of Indictment and Memorandum of Law (Doc. 24) is **DENIED**.

DONE AND ORDERED in Jacksonville, Florida, on October 2, 2023.


MARCIA MORALES HOWARD
United States District Judge

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Copies to:

Counsel of Record