

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

UNITED STATES OF AMERICA

v.

Case No. 3:23-cr-144-MMH-MCR

MARKEE WASHINGTON

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**ORDER**

**THIS CAUSE** is before the Court on Defendant’s Motion to Dismiss Count I of the Indictment and Memorandum of Law (Doc. 24; Motion), filed November 30, 2023. In the Motion, Defendant argues that the Court should “dismiss count I of the Indictment because 18 U.S.C. § 922(g)(1) unconstitutionally infringes on his Second Amendment right to ‘keep and bear arms’” and “exceeds Congress’s authority under the Commerce Clause[.]” Motion at 1. As to the Second Amendment, the Court ordered Defendant to show cause why this challenge was not foreclosed by the binding Eleventh Circuit precedent of United States v. Dubois, 94 F.4th 1284 (11th Cir. 2024) and United States v. Rozier, 598 F.3d 768 (11th Cir. 2010). See Order at 1 (Doc. 46; Order), entered April 11, 2024. Defendant filed a response to the Court’s Order on April 19, 2024. See Mr. Washington’s Response to Court Order (Doc. 47; Response). And in the Response, acknowledged that “the holding in Dubois would foreclose


this Court's granting his motion to dismiss." Response at 1–2. Thus, to the extent Defendant argues that Count I of the indictment should be dismissed because 18 U.S.C. § 922(g)(1) violates the Second Amendment, the Motion is due to be denied. As to the Commerce Clause, in the Motion, "[Defendant] recognizes that Eleventh Circuit precedent forecloses" this challenge as well. Motion at 11 n.4 (citing United States v. Wright, 607 F.3d 708, 715–16 (11th Cir. 2010)). Thus, to the extent Defendant argues that Count I of the indictment should be dismissed because 18 U.S.C. § 922(g)(1) violates the Commerce Clause, the Motion also is due to be denied.

Accordingly, it is

**ORDERED:**

Defendant's Motion to Dismiss Count I of the Indictment and Memorandum of Law (Doc. 24) is **DENIED**.

**DONE AND ORDERED** in Jacksonville, Florida this 26th day of April, 2024.

  
**MARCIA MORALES HOWARD**  
United States District Judge

Lc32

Copies to:  
Counsel of Record