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United States v. Johnathan A. Williams, 8:22-cr-00308-JSM-AAS A-1

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United States v. Johnathan A. Williams, 8:22-cr-00308-JSM-AAS A-2

Decision of the Court of Appeals for the Eleventh Circuit,

United States v. Johnathan A. Williams, 23-13858 A-3

APPENDIX A-1

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-13858

Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOHNATHAN ANTON WILLIAMS,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:22-cr-00308-JSM-AAS-1

Before JORDAN, LUCK, and LAGOA, Circuit Judges.

PER CURIAM:

Johnathan Williams appeals his conviction for possession of a firearm and ammunition as a convicted felon, arguing that 18 U.S.C. § 922(g)(1) violates the Second Amendment and the Commerce Clause, both facially and as applied to him. Both Williams and the government agree that the judgment contains a clerical error incorrectly citing the offense of conviction.

I.

We generally review the constitutionality of a statute *de novo*. *United States v. Wright*, 607 F.3d 708, 715 (11th Cir. 2010).

We are bound to adhere to our prior panel precedent unless that precedent has been abrogated by our Court sitting *en banc* or by the Supreme Court. *United States v. White*, 837 F.3d 1225, 1228 (11th Cir. 2016) (quotation marks omitted). “To constitute an overruling for the purposes of this prior panel precedent rule, the Supreme Court decision must be clearly on point.” *United States v. Kaley*, 579 F.3d 1246, 1255 (11th Cir. 2009) (quotation marks omitted). To abrogate precedent, the Supreme Court must “demolish and eviscerate each of its fundamental props.” *United States v. Du-bois*, 94 F.4th 1284, 1293 (11th Cir. 2024) (quotation marks omitted).

Section 922(g) of Title 18 of the United States Code prohibits anyone who has been convicted of a crime punishable by more

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than one year of imprisonment from possessing a firearm or ammunition. 18 U.S.C. § 922(g)(1).

The Commerce Clause reads: “The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.” U.S. Const. art. I, § 8, cl. 3. We have held that § 922(g) is constitutional under the Commerce Clause. *United States v. Stancil*, 4 F.4th 1193, 1200 (11th Cir. 2021). We have also rejected as-applied challenges to 18 U.S.C. § 922(g), holding that the government proves a “minimal nexus” to interstate commerce where it proves that the firearms were manufactured outside the state where the offense took place and thus necessarily traveled in interstate commerce. *Wright*, 607 F.3d at 715-16. In *United States v. McAllister*, we explicitly rejected the argument that *United States v. Lopez*, 514 U.S. 549 (1995) rendered § 922(g)(1) unconstitutional as applied to the appellant, holding that § 922(g)(1)’s statutory requirement of a connection to interstate commerce could satisfy the “minimal nexus” requirement that remained in binding precedent. 77 F.3d 387, 390 (11th Cir. 1996). Similarly, in *United States v. Scott*, we held that *United States v. Morrison*, 529 U.S. 598 (2000) did not abrogate *McAllister* because § 922(g)(1) contained an explicit statutory jurisdictional requirement that “immunizes § 922(g)(1) from Scott’s facial constitutional attack,” and *Morrison* did not compel a different conclusion than reached in *McAllister*. 263 F.3d 1270, 1273 (11th Cir. 2001).

The Second Amendment reads: “A well regulated Militia, being necessary to the security of a free State, the right of the

people to keep and bear Arms, shall not be infringed.” U.S. Const. amend. II. In *District of Columbia v. Heller*, the Supreme Court noted that while it “[did] not undertake an exhaustive historical analysis . . . of the full scope of the Second Amendment, nothing in [the *Heller*] opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons.” 554 U.S. 570, 626 (2008). In *United States v. Rozier*, we relied on *Heller* to hold that § 922(g)(1) did not violate the Second Amendment. 598 F.3d 768, 770 (11th Cir. 2010). The *Rozier* decision recognized that prohibiting felons from possessing firearms was a “presumptively lawful longstanding prohibition.” *Id.* at 771 (quotation marks omitted). We stated that *Heller* suggested that “statutes disqualifying felons from possessing a firearm under any and all circumstances do not offend the Second Amendment.” *Id.*

In *Dubois*, we rejected a defendant’s Second Amendment challenge to § 922(g)(1). 94 F.4th at 1291-93. We determined that *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022), did not abrogate our precedent in *Rozier* under the prior-panel-precedent rule because the Supreme Court made it clear that *Heller* did not cast doubt on felon-in-possession prohibitions and that its holding in *Bruen* was consistent with *Heller*. *Id.* at 1293. We held that, because we required clearer instruction from the Supreme Court before we could reconsider § 922(g)(1)’s constitutionality, we were still bound by *Rozier*. *Id.*

Here, we conclude that the district court did not err in convicting Williams under § 922(g)(1) because his challenges are

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foreclosed by our binding precedent. *Dubois* and *Rozier* foreclose Williams's Second Amendment arguments. See *Rozier*, 598 F.3d at 770-71; *Dubois*, 94 F.4th at 1293. Further, as Williams conceded, his Commerce Clause arguments are similarly foreclosed by our precedent. See *McAllister*, 77 F.3d at 390; *Scott*, 263 F.3d at 1273. Accordingly, we affirm Williams's conviction under § 922(g)(1).

II.

We may recognize errors in the judgment and remand with instructions for the district court to correct the errors. See *United States v. Anderton*, 136 F.3d 747, 751 (11th Cir. 1998) (*sua sponte* remanding with directions to correct the judgment, where it cited the wrong statute).

Rule 36 allows a court “at any time [to] correct a clerical error in a judgment, order, or other part of the record, or correct an error in the record arising from oversight or omission.” Fed. R. Crim. P. 36; *United States v. Portillo*, 363 F.3d 1161, 1164 (11th Cir. 2004). Rule 36 encompasses “minor, uncontroversial errors” and may not be used to correct substantive legal errors such as adding a term of forfeiture that was not imposed at sentencing or increasing a term of imprisonment. *Portillo*, 363 F.3d at 1164-65 (quotation mark omitted).

Because the district court's written judgment incorrectly lists Williams's offense as “18 U.S.C. §§ 922(g)(1) and (a)(2),” rather than 18 U.S.C. §§ 922(g)(1) and 924(a)(8), we vacate Williams's written judgment, in part, and remand for the limited purpose of

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allowing the district court to amend the judgment to reflect the proper statute.

**AFFIRMED IN PART; VACATED IN PART AND
REMANDED WITH INSTRUCTIONS.**

APPENDIX A-2

Johnathan Anton Williams
8:22-cr-308-JSM-AAS

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

Case Number: 8:22-cr-308-JSM-AAS

v.

USM Number: 20218-510

JOHNATHAN ANTON WILLIAMS

Sonthonax SaintGermain, AFPD

AMENDED JUDGMENT IN A CRIMINAL CASE*

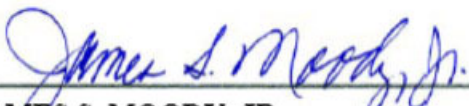
Defendant was found guilty to Counts One, Two, and Three of the Indictment. Defendant is adjudicated guilty of the following offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number</u>
21 U.S.C. § 841(b)(1)(C)	Possession with Intent to Distribute Methamphetamine	May 4, 2022	One
18 U.S.C. § 924(c)(1)(A)(i)	Possession of a Firearm in Furtherance of a Drug Trafficking Crime	May 4, 2022	Two
18 U.S.C. §§ 922(g)(1) and 924(a)(8)	Possession of a Firearm and Ammunition by a Convicted Felon	May 4, 2022	Three

Defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS ORDERED that Defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, Defendant shall notify the Court and United States Attorney of any material change in Defendant's economic circumstances.

Date of Imposition of Judgment: November 14, 2023



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

February 7, 2025

*Judgment amended to correct the proper statute citation as to Count Three pursuant to remand by the Court of Appeals. No other changes made.
AO 245B (Rev. 09/19) Judgment in a Criminal Case

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IMPRISONMENT

Defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **ONE HUNDRED FOUR (104) MONTHS. This term consists of a 44-month term as to each of Counts One and Three, with both such terms to run concurrently, and a 60-month term as to Count Two, with this term to run consecutively to all other counts.**

The Court makes the following recommendations to the Bureau of Prisons:

- 1. Confinement at the Jesup facility.
- 2. Participation in the 500-hour Intensive Drug Treatment Program (RDAP).
- 3. Take classes to obtain his General Educational Degree (GED).
- 4. Receive vocational training in the areas of electrical, heating ventilation and air-conditioning, as available.
- 5. Participation in UNICOR.

Defendant is remanded to the custody of the United States Marshal to await designation by the Bureau of Prisons.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
Deputy U.S. Marshal

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SUPERVISED RELEASE

Upon release from imprisonment, Defendant will be on supervised release for a term of **THIRTY-SIX (36) MONTHS**. This term consists of a 36-month term as to each of Counts One, Two and Three, with all such terms to run concurrently.

MANDATORY CONDITIONS

1. Defendant shall not commit another federal, state or local crime.
2. Defendant shall not unlawfully possess a controlled substance.
3. Defendant shall refrain from any unlawful use of a controlled substance. Defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
4. Defendant shall cooperate in the collection of DNA as directed by the Probation Officer.

Defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

Defendant shall also comply with the additional conditions on the attached page.

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STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, Defendant shall comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by Probation Officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. Defendant shall report to the Probation Office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the Probation Officer instructs you to report to a different Probation Office or within a different time frame. After initially reporting to the Probation Office, Defendant will receive instructions from the court or the Probation Officer about how and when Defendant must report to the Probation Officer, and Defendant must report to the Probation Officer as instructed.
2. After initially reporting to the Probation Office, you will receive instructions from the court or the Probation Officer about how and when Defendant shall report to the Probation Officer, and Defendant shall report to the Probation Officer as instructed.
3. Defendant shall not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the Probation Officer.
4. Defendant shall answer truthfully the questions asked by your Probation Officer
5. Defendant shall live at a place approved by the Probation Officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), Defendant shall notify the Probation Officer at least 10 days before the change. If notifying the Probation Officer in advance is not possible due to unanticipated circumstances, Defendant shall notify the Probation Officer within 72 hours of becoming aware of a change or expected change.
6. Defendant shall allow the Probation Officer to visit you at any time at your home or elsewhere, and Defendant shall permit the Probation Officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. Defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the Probation Officer excuses you from doing so. If you do not have full-time employment Defendant shall try to find full-time employment, unless the Probation Officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), Defendant shall notify the Probation Officer at least 10 days before the change. If notifying the Probation Officer at least 10 days in advance is not possible due to unanticipated circumstances, Defendant shall notify the Probation Officer within 72 hours of becoming aware of a change or expected change.
8. Defendant shall not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, Defendant shall not knowingly communicate or interact with that person without first getting the permission of the Probation Officer.
9. If you are arrested or questioned by a law enforcement officer, Defendant shall notify the Probation Officer within **72 hours**.
10. Defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. Defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the Probation Officer determines that you pose a risk to another person (including an organization), the Probation Officer may require you to notify the person about the risk and

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Defendant shall comply with that instruction. The Probation Officer may contact the person and confirm that you have notified the person about the risk.

- 13. Defendant shall follow the instructions of the Probation Officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. Probation Officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at:

www.uscourts.gov.

Defendant's Signature: _____

Date: _____

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ADDITIONAL CONDITIONS OF SUPERVISED RELEASE

1. Defendant shall participate in a substance abuse program (outpatient and/or inpatient) and follow the Probation Officer's instructions regarding the implementation of this court directive. Further, Defendant shall contribute to the costs of these services not to exceed an amount determined reasonable by the Probation Office's Sliding Scale for Substance Abuse Treatment Services. During and upon completion of this program, Defendant is directed to submit to random drug testing.
2. Defendant shall submit to a search of your person, residence, place of business, any storage units under Defendant's control, computer, or vehicle, conducted by the United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. You shall inform any other residents that the premises may be subject to a search pursuant to this condition.

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CRIMINAL MONETARY PENALTIES

Defendant must pay the following total criminal monetary penalties under the schedule of payments set forth in the Schedule of Payments.

<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment*</u>
\$300.00	N/A	Waived	N/A	N/A

Defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If Defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(I), all nonfederal victims must be paid in full prior to the United States receiving payment.

SCHEDULE OF PAYMENTS

Having assessed Defendant’s ability to pay, payment of the total criminal monetary penalties is due as follows:

Special Assessment shall be paid in full and is due immediately.

Unless the Court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons’ Inmate Financial Responsibility Program, are made to the Clerk of the Court, unless otherwise directed by the Court, the Probation Officer, or the United States attorney.

Defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, and (9) penalties, and (10) costs, including cost of prosecution and court costs.

FORFEITURE

Defendant shall forfeit to the United States those assets previously identified in the Order of Forfeiture, that are subject to forfeiture.

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pu. L. No. 115-299.

* Justice for Victims of Trafficking Act of 2015, Pub.L. No. 114-22.

APPENDIX A-3

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

UNITED STATES OF AMERICA

v.

CASE NO: 8:22-cr-308-JSM-AAS

JOHNATHAN ANTON WILLIAMS

ORDER

THIS CAUSE comes before the Court upon Defendant Johnathan Williams' Motion to Dismiss Counts Two and Three of the Indictment (Dkt. 32). The Government responded in opposition (Dkt. 33). Count Two charges the Defendant with using or carrying a firearm during the commission of a drug trafficking crime in violation of 18 U.S.C. § 924(c). Count Three charges the Defendant with being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g) (1).

Williams contends that both charges should be dismissed because they violate the Second Amendment to the United States Constitution both facially and as applied. He bases his argument on the fairly recent case of *New York State Rifle and Pistol Ass'n, Inc. vs. Bruen*, 142 S. Ct. 2111 (2022). And, as to Count Three, he makes an additional argument that the charge exceeds Congress's authority under the Commerce Clause, both facially and as applied.

Williams describes the facts of the case as:

In this case the evidence, in the light most favorable to the government, is that Mr. Williams was seen conducting a sale of a controlled substance. This sale was witnessed by a plain-clothed

police officer surveilling the neighborhood due to complaints of drug dealing. The police initiated an investigatory stop of Mr. Williams who was inside his car. As they were talking to Mr. Williams, he fled the area. A search of his car revealed controlled substances and in close proximity a firearm and ammunition. He was then indicted for the distribution and sale of drugs, carrying/use of a firearm in connection with a drug-trafficking crime, and being a felon in possession of a firearm. At no time, was the gun displayed, used, brandished, or discharged.

(Defendant's motion, Dkt. 32, p3.)

The Second Amendment to the Constitution of the United States provides:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bare Arms, shall not be infringed.

Williams' argument is that the Second Amendment has no exceptions. That is, it is a right that applies to everyone under any circumstance. He contends that *Bruen* supports this argument. Unfortunately for Williams, *Bruen* dealt with the circumstances of a law-abiding citizen while Williams is charged with being a convicted felon and having a gun in connection with a drug trafficking crime.

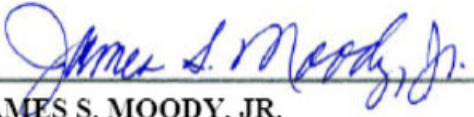
Contrary to Williams' argument, the Eleventh Circuit has previously held that "statutes disqualifying felons from possessing a firearm under any and all circumstances do not offend the Second Amendment." *United States v. Rozier*, 598 F.3d 768, 771 (11th Cir. 2020) (per curium). Since *Bruen* dealt with a law-abiding citizen, not a felon, it does not specifically or impliedly reject the reasoning of the Eleventh Circuit in *Rozier*. Therefore, this Court is bound by the Eleventh Circuit precedent in *Rozier* requiring it to deny the motion to dismiss.

Even if this Court were not bound by Eleventh Circuit precedent, Williams' arguments would be unavailing. *Bruen* clarified the Supreme Court's prior decision in *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008) which indicated prohibitions against felons possessing guns were constitutional. *Bruen* did not overrule or undermine *Heller*. In fact, in *Bruen*, both Justices Alito and Kavanaugh in their concurring opinion specifically stated that the prohibitions on the possession of a firearm by a felon were constitutional. This Court agrees with the reasoning of *United States v. Isaac*, 2023 WL 1415597 (Jan. 31, 2023) in concluding the Motion to Dismiss lacks merit.

As to Williams' additional argument under the Commerce Clause concerning Count Three, the Court is bound by prior Eleventh Circuit precedent to deny it in light of *United States v. Jordan*, 635 F. 3d 1181, 1189 (11th Cir. 2011).

Therefore, the Court denies Williams' Motion to Dismiss Counts Two and Three of the Indictment (Dkt. 32).

DONE and ORDERED in Tampa, Florida, this 14th day of March, 2022.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record