

NOT FOR PUBLICATION

In the  
United States Court of Appeals  
For the Eleventh Circuit

---

No. 25-13609  
Non-Argument Calendar

---

UNITED STATES OF AMERICA,

*Plaintiff-Appellee,*

*versus*

JESSE JAY PEREZ,

a.k.a. Jesse Jay Perez Kanuch,

*Defendant-Appellant.*

---

Appeal from the United States District Court  
for the Northern District of Florida  
D.C. Docket No. 1:25-cr-00009-AW-MAL-1

---

Before JILL PRYOR, BRANCH, and KIDD, Circuit Judges.

PER CURIAM:

Jesse Perez pleaded guilty to possessing ammunition as a convicted felon and was sentenced to 36 months of imprisonment.

He now appeals, challenging the constitutionality of his statute of conviction and the reasonableness of his sentence. After careful review, we affirm.

### **I. BACKGROUND**

In January 2025, Perez was stopped by police in Gainesville, Florida, for riding his bicycle without a rear-facing light or reflector. Police determined that Perez had an active felony warrant out of California and placed him under arrest. Upon searching Perez’s person and backpack, police found a fixed-blade hunting knife, a machete, a pellet rifle, a flare gun, 13 firearm magazines, and about 380 rounds of ammunition—all the necessary components to build a “ghost gun” assault rifle.

Perez thereafter pleaded guilty to possessing ammunition as a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(8).

Perez’s presentence investigation report (“PSI”), to which he did not object, provided an advisory guideline range of 15 to 21 months of imprisonment. This range was based, in part, on Perez’s two previous California firearm convictions. Perez’s first conviction arose out of his July 2022 arrest for carrying an unloaded shotgun and a loaded Glock in public. Perez’s second conviction came less than a year later after body armor, an AR-15 rifle loaded with high-capacity magazines, and various other magazines and ammunition were found in the trunk of his car during a traffic stop.

25-13609

## Opinion of the Court

3

At sentencing, the district court adopted the PSI's guideline calculations and turned to its consideration of the appropriate sentence under 18 U.S.C. § 3553(a). When engaged in discussion with Perez's counsel, the court expressed concern with Perez's criminal history and the close proximity of those convictions to his commission of the instant offense. It noted that Perez apparently had a "Second Amendment interest and an interest in guns, which a lot of people do," but it opined that his "bizarre collection of all these different parts" seemed to go beyond a recreational interest in guns for activities like hunting or target practice.

After hearing further from the parties, the district court sentenced Perez to thirty-six months of imprisonment to be followed by three years of supervised release. The court emphasized the need for specific and general deterrence, as Perez had received "one [firearm] conviction after another, all in a short time period." It opined that Perez "[was] someone who definitely . . . want[ed] to have firearms, [and] ha[d] not been deterred from illegally having them or illegally carrying them to this point." The court also noted its consideration of the need to protect the public, given the large volume of ammunition found on Perez and his history of possessing dangerous weapons and body armor.

In concluding the hearing, the district court stated that "a lesser sentence would be insufficient to comply with the . . . purposes of sentencing" and noted that it had considered everything in the record and all of the § 3553(a) factors, even the ones it did

not specifically discuss. Perez objected to the imposed sentence, and this appeal followed.

## II. STANDARD OF REVIEW

When, as is the case here, “a defendant raises a constitutional challenge for the first time on appeal, we review only for plain error.” *United States v. Alfonso*, 104 F.4th 815, 820 (11th Cir. 2024), *cert. denied*, 145 S. Ct. 2706 (2025). When reviewing the substantive reasonableness of a sentence, we consider the totality of the circumstances under the deferential abuse-of-discretion standard. *Gall v. United States*, 552 U.S. 38, 51 (2007).

## III. DISCUSSION

Our discussion proceeds in two parts. First, we explain why Perez cannot succeed in his constitutional challenges to § 922(g). Second, we discuss why the sentence imposed in this case is substantively reasonable.

### *A. Perez’s constitutional challenges to § 922(g) are foreclosed by binding precedent*

Perez first argues that § 922(g) is unconstitutional under the Second Amendment, as applied to him, considering *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S. Ct. 2111 (2022), and *United States v. Rahimi*, 144 S. Ct. 1889 (2024). He contends that his conduct is covered by the Second Amendment and that the government cannot identify a historical tradition of disarming those previously convicted of nonviolent felonies. However, as Perez concedes, we recently confirmed that neither *Rahimi* nor *Bruen* abrogated our previous decision in *United States v. Rozier*, 598 F.3d

768, 770–71 (11th Cir. 2010), which held that § 922(g)(1) is constitutional under the Second Amendment. *United States v. Dubois*, 139 F.4th 887, 890–94 (11th Cir. 2025), *cert. denied*, No. 25-6281 (U.S. Jan. 20, 2026).

Perez further argues that § 922(g)(1) exceeds Congress’s authority under the Commerce Clause, as understood in *United States v. Lopez*, 514 U.S. 549 (1995). He contends that § 922(g)(1) is facially unconstitutional because it refers only to “commerce,” rather than “interstate or foreign commerce,” and provides no mechanism for ensuring that the possession in question substantially affects interstate commerce on a case-by-case basis. However, as Perez again concedes, “we have already held that § 922(g) is within Congress’s Commerce Clause Powers.” *United States v. Stancil*, 4 F.4th 1193, 1200 (11th Cir. 2021); *see United States v. Scott*, 263 F.3d 1270, 1273–74 (11th Cir. 2001).

Perez also argues that § 922(g)(1) is unconstitutional as applied to him because the government failed to establish a connection, much less a substantial one, between his personal possession of the ammunition and interstate commerce. But we have rejected similar as-applied challenges and determined that the government can prove the required “minimal nexus” by showing that a firearm or ammunition was manufactured outside the state where the offense took place and thus “necessarily traveled in interstate commerce.” *United States v. Wright*, 607 F.3d 708, 715–16 (11th Cir. 2010); *see United States v. McAllister*, 77 F.3d 387, 390 (11th Cir.

1996). That burden was satisfied in this case because, when pleading guilty, Perez admitted that the ammunition he possessed “was manufactured in various locations outside of the State of Florida and, therefore, traveled in and affected interstate or foreign commerce.”

Because “we are bound to follow a prior binding precedent unless and until it is overruled by this Court en banc or by the Supreme Court,” Perez’s Second Amendment and Commerce Clause challenges must fail. *United States v. White*, 837 F.3d 1225, 1228 (11th Cir. 2016) (citation modified); *see United States v. Gillis*, 938 F.3d 1181, 1198 (11th Cir. 2019) (“The prior panel precedent rule applies regardless of whether the later panel believes the prior panel’s opinion to be correct, and there is no exception to the rule where the prior panel failed to consider arguments raised before a later panel.”); *United States v. Lejarde-Rada*, 319 F.3d 1288, 1291 (11th Cir. 2003) (“[T]here can be no plain error where there is no precedent from the Supreme Court or this Court directly resolving it.”).

*B. Perez’s 36-month sentence is substantively reasonable*

Section 3553(a)’s “overarching” instruction to courts is that any sentence must be sufficient but not greater than necessary to comply with the purposes of sentencing. *Kimbrough v. United States*, 552 U.S. 85, 101 (2007). These sentencing purposes include the need to reflect the seriousness of the offense, promote respect for the law, sufficiently punish the offense, deter criminal conduct, and protect the public from the defendant’s future criminal conduct.

18 U.S.C. § 3553(a)(2). A court must also consider the offense's nature and circumstances, the defendant's history and characteristics, the types of sentences available, the applicable guideline range, any pertinent policy statements from the Sentencing Commission, the need to avoid unwarranted sentencing disparities between similarly situated defendants, and the need to provide restitution to any of the defendant's victims. *Id.* § 3553(a)(1), (3)–(7).

On appeal, Perez contends that his sentence is substantively unreasonable because the district court gave insufficient weight to his non-violent history and placed too much emphasis on the temporal proximity between his prior felony conviction and the instant offense without actual knowledge of when he was previously released from prison. We disagree.

The weight given to each § 3553(a) factor is left to the sound discretion of the district court, *United States v. Rosales-Bruno*, 789 F.3d 1249, 1254 (11th Cir. 2015), and the record demonstrates that the court carefully considered the relevant factors and offered sufficient justification for its above-guideline sentence, particularly emphasizing the need for deterrence and protection of the public, *see United States v. Kuhlman*, 711 F.3d 1321, 1326 (11th Cir. 2013). And even though Perez's calculated guideline range incorporated his criminal history, the district court was within its discretion to find that this range did not account for the nature or timing of those convictions and, therefore, to place greater weight on the need for deterrence and protection of the public over other considerations discussed at sentencing. *See Rosales-Bruno*, 789 F.3d at 1263; *see also*

*United States v. Amedeo*, 487 F.3d 823, 833 (11th Cir. 2007) (explaining that the failure to discuss all mitigating evidence does not “mean[] that the court erroneously ‘ignored’ or failed to consider th[at] evidence”). Perez’s 36-month sentence is also well below the applicable fifteen-year statutory maximum, which further supports its reasonableness. 18 U.S.C. § 924(a)(8); *United States v. Sotelo*, 130 F.4th 1229, 1245 (11th Cir. 2025).

In short, we are not “left with the definite and firm conviction that the district court committed a clear error of judgment in weighing the § 3553(a) factors by arriving at a sentence that lies outside the range of reasonable sentences dictated by the facts of the case.” *United States v. Irej*, 612 F.3d 1160, 1190 (11th Cir. 2010) (en banc) (citation modified). We therefore find no abuse of discretion in the district court’s imposition of Perez’s 36-month sentence.

#### IV. CONCLUSION

We **AFFIRM** Perez’s conviction and sentence.