



U.S. Department of Justice

United States Attorney
Southern District of Mississippi

1575 Twentieth Avenue
Gulfport, Mississippi 39501

Telephone: (228) 563-1560

VIA ELECTRONIC CASE FILING

May 23, 2023

Lyle W. Cayce, Clerk
United States Court of Appeals
for the Fifth Circuit
600 S. Maestri Place
New Orleans, LA 70130

Re: United States v. Daniels, No. 22-60596: Rule 28(j) Response

Dear Mr. Cayce:

In response to the Rule 28(j) letter submitted by appellant earlier today, drawing the Court's attention to the denial of a motion to reconsider the ruling by a district court in this circuit, the opinion in that case is worthy of consideration only to the extent this Court finds the district court's reasoning persuasive. This Court will have an opportunity to examine that decision directly given that it is now on appeal. *See United States v. Connelly*, 2023 WL 2806324 (W.D. Tex. Apr. 6, 2023), *on appeal*, No. 23-50312 (5th Cir.).

Since the filing of the Government's brief in this case, other district courts have weighed in supporting the constitutionality of 18 U.S.C. § 922(g)(3). *See, e.g., United States v. Costianes*, 2023 WL 3550972, at *6 (D. Md. May 18, 2023) (in rejecting the defendant's *Bruen* challenge, "the Court joins the majority of courts that have held § 922(g)(3) constitutional in the wake of *Bruen*"); *United States v. Le*, 2023 WL 3016297, at *5 (S.D. Iowa Apr. 11, 2023) (rejecting constitutional challenge to § 922(g)(3)).

Lyle W. Cayce, Clerk
May 23, 2023
Page Two

The Government invites the Court's attention to this additional authority pursuant to Federal Rule of Appellate Procedure 28(j).

.

Respectfully,

DARREN J. LAMARCA
United States Attorney
Southern District of Mississippi

GAINES H. CLEVELAND
Assistant U.S. Attorney

cc: Kimberly Golden Gore
Assistant Federal Defender

By: /s/ *Jonathan D Buckner*
JONATHAN D. BUCKNER
Assistant U.S. Attorney