

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

United States v. Jimenez

No. 17-287-cr, United States Court of Appeals for the Second Circuit (July 10, 2018)

SUMMARY

The Second Circuit upheld 18 U.S.C. § 922(g)(6), which prohibits firearm and ammunition possession by persons dishonorably discharged from the military, as applied to a defendant convicted of felony-equivalent conduct by court-martial. Assuming Second Amendment protection, the court held that such individuals are not "law-abiding and responsible" citizens at the Amendment's core, and the statute withstands intermediate scrutiny because it is substantially related to the important government interest in public safety. The court declined to address facial challenges or hypothetical applications, finding the statute constitutional as applied.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Pooler; Raggi; Droney
JURISDICTION	Federal
DECIDED	July 10, 2018
DOCKET	17-287-cr
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the United States District Court for the Southern District of New York from a judgment of conviction after a guilty plea.
STANDARD OF REVIEW	De novo review of a district court's determination that the application of a law does not violate the Second Amendment.
PRECEDENTIAL VALUE	published
PARTIES	Jose Jimenez v. United States of America

TOPICS

- second amendment
- constitutional law
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

- Criminal Law
- Constitutional Law
- Firearms Regulation

QUESTIONS PRESENTED

1. Whether Jimenez's prosecution and conviction for possessing ammunition after being dishonorably discharged from the military violates the Second Amendment.

HOLDINGS

1. The statute does not violate the Second Amendment. Jimenez is not among the 'law-abiding and responsible' citizens whose interests in possessing firearms are at the core of the Second Amendment, and the statute withstands intermediate scrutiny.

KEY QUOTATIONS

“When a defendant has already been convicted for specific conduct under the challenged law, we will examine the complainant's conduct before analyzing other hypothetical applications of that law.” (5)

“Since the Supreme Court announced that the Second Amendment protects an individual right to possess and carry weapons in case of confrontation, we have developed a two-step framework for determining whether legislation infringes on this right.” (7)

“Heller reads the Second Amendment as elevating above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home.” (12)

“Consistent with this precedent, we hold that those who, like Jimenez, have been found guilty of felony-equivalent conduct by a military tribunal are not among those law-abiding and responsible persons whose interests in possessing firearms are at the Amendment's core.” (14)

“To withstand intermediate scrutiny, a law must generally be substantially related to the achievement of an important governmental interest.” (16)

FACTUAL BACKGROUND

On June 3, 2015, Jose Jimenez was arrested after being found in possession of a bullet during an attempted undercover firearms purchase. He had driven Oscar Sanchez to a meeting where Sanchez planned to sell handguns to an undercover NYPD detective. After the sale failed, Sanchez removed a round from his handgun and handed it to Jimenez. Law enforcement discovered the bullet during a pat-down. Further investigation revealed Jimenez had been dishonorably discharged from the Marines in 2012 after being convicted by court-martial for offenses including conspiracy to sell military property, drug use, and dealing stolen firearms.

PROCEDURAL HISTORY

Jimenez filed a motion to dismiss the indictment challenging the constitutionality of 18 U.S.C. § 922(g)(6) under the Second Amendment. The district court denied the motion. Jimenez then pled guilty pursuant to Rule 11(a)(2), preserving his right to appeal. The district court sentenced him to three years' supervised release and entered judgment on January 11, 2017. Jimenez filed a notice of appeal the next day.

DISPOSITION

affirmed

CASES CITED

- District of Columbia v. Heller, 554 U.S. 570 (2008)
- United States v. Decastro, 682 F.3d 160 (2d Cir. 2012)
- Kachalsky v. County of Westchester, 701 F.3d 81 (2d Cir. 2012)
- Chafin v. Chafin, 568 U.S. 165 (2013)
- United States v. Farhane, 634 F.3d 127 (2d Cir. 2011)
- New York State Rifle & Pistol Association, Inc. v. Cuomo, 804 F.3d 242 (2d Cir. 2015)
- New York State Rifle & Pistol Association, Inc. v. City of New York, 883 F.3d 45 (2d Cir. 2018)
- United States v. Bogle, 717 F.3d 281 (2d Cir. 2013)
- United States v. Stuckey, 317 F. App'x 48 (2d Cir. 2009)
- United States v. Bryant, 711 F.3d 364 (2d Cir. 2013)
- United States v. Bena, 664 F.3d 1180 (8th Cir. 2011)
- United States v. Vongxay, 594 F.3d 1111 (9th Cir. 2010)
- Binderup v. Attorney General United States of America, 836 F.3d 336 (3d Cir. 2016)
- Hamilton v. Pallozzi, 848 F.3d 614 (4th Cir. 2017)
- United States v. Rozier, 598 F.3d 768 (11th Cir. 2010)
- Tyler v. Hillsdale County Sheriff's Department, 837 F.3d 678 (6th Cir. 2016)
- United States v. Chester, 628 F.3d 674 (4th Cir. 2010)
- United States v. Skoien, 614 F.3d 638 (7th Cir. 2010)
- United States v. Day, 476 F.2d 562 (6th Cir. 1973)
- Solorio v. United States, 483 U.S. 435 (1987)
- Grafton v. United States, 206 U.S. 333 (1907)
- United States v. Dixon, 509 U.S. 688 (1993)
- Ortiz v. United States, 585 U.S. ____ (2018)
- United States v. Kebodeaux, 570 U.S. 387 (2013)
- Osterweil v. Bartlett, 706 F.3d 139 (2d Cir. 2013)
- United States v. Reese, 627 F.3d 792 (10th Cir. 2010)
- Kwong v. Bloomberg, 723 F.3d 160 (2d Cir. 2013)