

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

**Defense Distributed; Second Amendment Foundation, Inc. v.
Attorney General of New Jersey**

Defense Distributed v. Attorney General of New Jersey, No. 23-3058 (3d Cir. Feb. 12, 2026) · No. 23-3058 ·
Decided February 12, 2026

SUMMARY

The U.S. Court of Appeals for the Third Circuit affirms the dismissal with prejudice of claims brought by Defense Distributed and the Second Amendment Foundation challenging New Jersey restrictions on distributing computer files used to manufacture firearms with 3D printers. The court holds that the plaintiffs lacked standing to assert their Second Amendment claim and rejects their arguments for retransfer of the case and for vagueness under the Due Process Clause. The court also concludes that the complaint did not plead sufficient facts to determine whether the distributed code was protected expressive activity under the First Amendment.

CASE DETAILS

COURT	United States Court of Appeals for the Third Circuit
WRITING FOR THE COURT	Krause, Circuit Judge; Scirica, Circuit Judge; Rendell, Circuit Judge
JURISDICTION	U.S. Court of Appeals for the Third Circuit
DECIDED	February 12, 2026
DOCKET	23-3058
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the District of New Jersey's dismissal with prejudice of claims challenging New Jersey's regulation of the distribution of digital files used to manufacture firearms with 3D printers, and from denial of appellants' motion to retransfer the action to the Western District of Texas.
STANDARD OF REVIEW	Dismissals for lack of standing and failure to state a claim were reviewed de novo, accepting well-pleaded allegations as true and drawing reasonable inferences for appellants. Denial of transfer under 28 U.S.C. § 1404(a) was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion

PARTIES

Defense Distributed, Second Amendment Foundation, Inc. v. Attorney General of New Jersey

TOPICS

first amendment free speech void for vagueness standing comity

PRACTICE AREAS

constitutional law civil procedure appellate procedure civil rights firearms law

QUESTIONS PRESENTED

1. Whether the District Court was required by the law-of-the-case doctrine, comity, or 28 U.S.C. § 1404(a) to retransfer the consolidated action to the Western District of Texas.
2. Whether appellants had Article III standing to challenge the New Jersey statute under the Second Amendment.
3. Whether the New Jersey statute was unconstitutionally vague under the Due Process Clause of the Fourteenth Amendment.
4. Whether the complaint plausibly alleged that the computer files appellants sought to distribute were covered by the First Amendment.

HOLDINGS

1. The law-of-the-case doctrine did not require retransfer because the Fifth Circuit's decision in the separate Texas action was not issued in the same case and did not govern the proceedings in the District of New Jersey.
2. Comity did not require the District Court to retransfer the case because comity is a discretionary principle of practice, not a rule of law, and the Texas court's request was nonbinding.
3. Section 1404(a) did not require retransfer because appellants failed to show that the balance of public and private interests favored Texas, and the District Court did not abuse its broad discretion in denying transfer.
4. Appellants lacked Article III standing because they did not allege that Defense Distributed, the Second Amendment Foundation, or any member attempted to 3D-print a firearm and was prevented from doing so by the New Jersey statute.
5. The New Jersey statute was not unconstitutionally vague because it provided fair notice and did not authorize or encourage arbitrary enforcement.
6. Computer code can be covered by the First Amendment, but coverage cannot be assumed merely because code is language-based or capable of communicating information. Purely functional code with no expressive purpose, use, or intent is outside the First Amendment's coverage.
7. Appellants failed to state a First Amendment claim because the complaint did not identify which files were regulated by the statute or plead facts sufficient to assess whether the code was expressive and

covered by the First Amendment.

KEY QUOTATIONS

“To invoke the protections of the First Amendment, the proponent must show that the particular use of the code burdened by a regulation involves the expression or communication of ideas in a way that implicates the First Amendment. Purely functional code with no expressive purpose, use, or intent is simply not covered by the First Amendment.” (29-30)

“Drawing on these cases and discussion, we hold that the determination of whether code enjoys First Amendment protection requires a fact-based and context-specific analysis.” (33-34)

“Appellants declined to do so, and the District Court therefore correctly dismissed their complaint with prejudice.” (38)

FACTUAL BACKGROUND

Defense Distributed develops and distributes digital firearms information, including CAD, CAM, and other computer files that can be used with 3D printers to manufacture firearms and firearm components. After the New Jersey Attorney General threatened legal action in 2018, New Jersey enacted a statute criminalizing distribution to unlicensed New Jersey residents of digital instructions or code that may be used to program a 3D printer to manufacture firearms or components. Defense Distributed later resumed distribution through encrypted transmissions but excluded certain New Jersey residents. Appellants alleged that the statute violated the First and Second Amendments and the Due Process Clause.

PROCEDURAL HISTORY

Appellants initially sued in the Western District of Texas, and the claims against the New Jersey Attorney General were later severed and transferred to the District of New Jersey, where they were consolidated with a related action. The District of New Jersey denied repeated motions to retransfer the case to Texas and dismissed the First Amendment, Second Amendment, and Due Process claims under Rule 12. Appellants declined leave to amend, and the Third Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Defense Distributed v. Bruck, 30 F.4th 414 (5th Cir. 2022)
- Defense Distributed v. Platkin, 48 F.4th 607, 608 (5th Cir. 2022) (Ho, J., concurring)
- Defense Distributed v. Platkin, 55 F.4th 486, 489, 493-95 (5th Cir. 2022)
- Arizona v. California, 460 U.S. 605, 618 (1983)
- In re City of Phila. Litig., 158 F.3d 711, 718 (3d Cir. 1998)
- Home Depot USA, Inc. v. Lafarge N. Am., Inc., 59 F.4th 55, 62 (3d Cir. 2023)

- *Farina v. Nokia, Inc.*, 625 F.3d 97, 117 n.21 (3d Cir. 2010)
- *Mast, Foos & Co. v. Stover Mfg. Co.*, 177 U.S. 485, 488-89 (1900)
- *Jumara v. State Farm Ins.*, 55 F.3d 873, 878-80, 883 (3d Cir. 1995)
- *Paramount Pictures v. Rodney*, 186 F.2d 111, 116 (3d Cir. 1950)
- *In re Nat'l Presto Indus., Inc.*, 347 F.3d 662, 663 (7th Cir. 2003)
- *Satterfield v. Dist. Att'y Phila.*, 872 F.3d 152, 158 (3d Cir. 2017)
- *Ellison v. Am. Bd. of Orthopaedic Surgery*, 11 F.4th 200, 205 (3d Cir. 2021)
- *Spokeo, Inc. v. Robins*, 578 U.S. 330, 339 (2016)
- *TransUnion LLC v. Ramirez*, 594 U.S. 413, 431 (2021)
- *Associated Builders & Contractors W. Pa. v. Cmty. Coll. of Allegheny Cnty.*, 81 F.4th 279, 288 (3d Cir. 2023)
- *Warth v. Seldin*, 422 U.S. 490, 500 (1975)
- *FEC v. Cruz*, 596 U.S. 289, 298 (2022)
- *Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc.*, 528 U.S. 167, 181 (2000)
- *FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012)
- *United States v. Williams*, 553 U.S. 285, 304-06 (2008)
- *Ward v. Rock Against Racism*, 491 U.S. 781, 794 (1989)
- *Posters 'N' Things, Ltd. v. United States*, 511 U.S. 513, 525 (1994)
- *Advent Sys. Ltd. v. Unisys Corp.*, 925 F.2d 670, 674 (3d Cir. 1991)
- *Whelan Assocs., Inc. v. Jaslow Dental Lab'y, Inc.*, 797 F.2d 1222, 1229-30 (3d Cir. 1986)
- *Universal City Studios, Inc. v. Corley*, 273 F.3d 429, 445-51 (2d Cir. 2001)
- *Bernstein v. United States Department of Justice*, 176 F.3d 1132, 1136, 1139-41 (9th Cir. 1999)
- *Bernstein v. U.S. Dep't of Just.*, 192 F.3d 1308 (9th Cir. 1999)
- *Junger v. Daley*, 209 F.3d 481, 483-85 (6th Cir. 2000)
- *Commodity Futures Trading Comm'n v. Vartuli*, 228 F.3d 94, 111 (2d Cir. 2000)
- *Texas v. Johnson*, 491 U.S. 397, 404 (1989)
- *United States v. O'Brien*, 391 U.S. 367, 376 (1968)
- *Clark v. Cmty. for Creative Non-Violence*, 468 U.S. 288, 293 n.5 (1984)
- *Bartnicki v. Vopper*, 532 U.S. 514, 517-20, 525-27 (2001)
- *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 570-71, 580 (2011)
- *Winter v. G.P. Putnam's Sons*, 938 F.2d 1033, 1035-36 (9th Cir. 1991)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Oakwood Lab'ys LLC v. Thanoo*, 999 F.3d 892, 904 (3d Cir. 2021)