

## New 3rd Circuit Opinion Suggests Potential Striking Down of Numerous Felon Gun Bans, According to Dissenting View



In a recent en banc ruling, the 3rd U.S. Circuit Court of Appeals in Philadelphia held that a man convicted of food stamps fraud possesses a Second Amendment right to own a firearm, despite a federal law indicating otherwise. The decision, issued on June 6, favored Bryan Range, who had pleaded guilty in 1995 to falsely declaring his lawn-mowing income to obtain food stamps. Despite facing a potential sentence of five years in prison, Range was instead granted probation.

Under the federal felon-in-possession law, individuals convicted of state misdemeanors with possible prison terms exceeding two years are prohibited from possessing firearms. However, a three-judge panel of the 3rd Circuit had previously ruled in November 2022 that Range did not possess a Second Amendment right to firearm ownership. This recent en banc decision, authored by Judge Thomas M. Hardiman, who was reportedly considered for a seat on the U.S. Supreme Court by former President Donald Trump, disagreed with the panel's findings.

The en banc court declared the federal felon-in-possession law as applied to Range to be unconstitutional. Judge Hardiman emphasized the narrow scope of the ruling and referenced the Supreme Court's June 2022 decision in *New York State Rifle & Pistol Association Inc. v. Bruen*. In that case, the Supreme Court affirmed that the Second Amendment protects an individual's right to carry a firearm for self-defense outside the home, relying on historical tradition and the language of the amendment.

According to Hardiman, the government failed to meet its burden of proving that there is a longstanding history and tradition of disarming individuals like Range. He argued that past actions of disarming groups distrusted by founding-era governments, such as Loyalists, Native Americans, Quakers, Catholics, and Blacks, do not establish that Range belongs to a similar group today.

Eight of the 15 en banc judges fully joined Judge Hardiman's opinion, while four judges concurred with the decision but did not join the majority opinion. On the other hand, four judges dissented, including Judge Patty Shwartz, who expressed concerns about the broad implications of the ruling. Shwartz, in a dissent joined by Judge L. Felipe Restrepo, argued that the majority's analytical framework could render most, if not all, felon bans unconstitutional.

While this en banc ruling is specific to Range's case, its potential implications have generated discussions among legal scholars. Some view the decision as signaling a potential shift in how courts interpret felon gun bans, while others emphasize the limited scope of the ruling and the unique circumstances of Range's conviction.

It remains to be seen how this decision will impact future cases involving felon gun bans. The ruling may prompt further challenges to the constitutionality of such bans, potentially leading to reevaluations and modifications of existing laws. As the legal landscape continues to evolve, legal professionals and scholars will closely monitor developments in Second Amendment jurisprudence and the application of felon gun bans across different jurisdictions.