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## **Court of Appeals for the Third Circuit Horribly Misses the Mark: Koons/Siegel Should Be Reviewed *En Banc* Immediately**

**Atlantic Highlands, NJ September 13, 2025** ---- While NJFOS is not a direct party to the consolidated cases of *Koons v. Platkin* and *Seigel v. Platkin*, in 2023, NJFOS, on behalf of its members and similarly situated peaceable people across the State of New Jersey, entered these consolidated cases as an *amici curiae*. Our members have a significant interest in the outcome of these cases.

On September 9, 2025, after a nearly two-year deliberation, a three-judge panel at the Court of Appeals for the Third Circuit reluctantly issued its opinion and judgment in these cases. While the Court begrudgingly confirmed what was plain under current American jurisprudence, that the most pernicious parts of New Jersey's *Carry Killer* response bill to the Supreme Court's decision in *NYSRPA v. Bruen*, hastily passed in December of 2022, clearly violate the right to keep and bear arms, the majority in this case has decided to completely re-write the law with a significant number of the challenged provisions in these cases. It disregarded the law it is bound by from both the Supreme Court and its own prior precedent.

“In the evolution of *Heller*, *Bruen*, and *Rahimi*, the Supreme Court has affirmed and reaffirmed a clear system of analyzing modern firearms regulation in the context of the Second Amendment. The majority opinion written by Judge Krause in *Koons* and *Siegel* strays way off the roadmap, not just in the more nuanced aspects of that body of law, but on the very central axioms those cases stand for,” said Joseph LoPorto, Director of Legal Operations.

*Breun* and its progenitors and progeny create a very simple paradigm: when the conduct in question implicates the plain text of the Second Amendment, the burden shifts to the government to show that the modern law is consistent with this nation's history and tradition of firearms regulation, as understood at the time of the founding. That system has been reaffirmed by the Supreme Court and the Third Circuit itself.

Not only did this panel invent law out of thin air, but, as Judge Porter, writing for the Dissent, correctly points out, the majority also relied on a wide swath of anecdotal and anachronistic citations that it found on its own (between 60 and 70% of the historical reference points the majority relies on) to form its understanding of the nation's history and tradition of firearms regulation. That historical evidence was not presented at prior proceedings by the State defendants, despite bearing the burden to do so. The plaintiffs have had no opportunity to confront these citations in the nearly three years of development in these cases.

The majority here has stalled and dragged its feet, only to completely disregard the law in reaching its conclusions, and has created very fundamental questions of fairness in these proceedings.

"We are not even close to being done with this," said Mark Cheeseman, President. In the recent proceedings on New Jersey's standard capacity magazine bans and bans of commonly owned semi-automatic rifles, the Third Circuit acted *sua sponte* to hear the cases *en banc*, taking them from a three-judge panel, prior to giving the panel a chance to rule. They did so to ensure such errors were not made. Here, too, the Third Circuit should immediately grant review of such a heavily flawed opinion, particularly in light of this panel's absurd and unnecessary delay in these proceedings.

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