

## Judge In New Jersey Sports-Betting Case Ruled Against Delaware

18 Jun, 2013

[Tony Batt. GamblingCompliance](#) [1]

One of the three judges who will make the decision on New Jersey's appeal against a federal ban on sports betting previously ruled against Delaware in a similar sports-betting case four years ago.

Julio Fuentes was on the three-judge panel of the 3rd U.S. Circuit Court of Appeals in 2009 which unanimously decided that [Delaware could not expand sports betting](#) [2] to include individual games as well as parlays.

The judges said such a betting expansion in Delaware would violate the [Professional and Amateur Sports Protection Act of 1992](#) [3], or PASPA.

In its appeal, New Jersey is arguing PASPA is unconstitutional because it violates [state sovereignty](#) [4].

Fuentes, D. Michael Fisher and Thomas Vanaskie are listed as the three judges who will hear New Jersey's appeal in an hour-long hearing scheduled for June 26 in the 3rd U.S. Circuit Court of Appeals in Philadelphia.

Before being nominated by President Clinton to the 3rd Circuit Court of Appeals in 2000, Fuentes was a judge in New Jersey.

Fisher ran as the Republican nominee for governor of Pennsylvania in 2002 and was defeated by Democrat Ed Rendell. Shortly after Fisher's defeat, President George W. Bush nominated him to be a federal judge.

Vanaskie was a federal judge in Pennsylvania before President Obama nominated him for the 3rd Circuit Court of Appeals in 2010.

New Jersey appealed to the 3rd Circuit Court of Appeals after U.S. District Judge Michael Shipp of Trenton, New Jersey, [upheld PASPA](#) [5] in a ruling for the U.S. Department of Justice and the nation's sports leagues on February 28.

The leagues [sued New Jersey](#) [6] last August after the state passed a law to legalize and regulate sports betting. The Justice Department intervened on behalf of the leagues in January.

"I was not surprised that the district court did not overturn PASPA, but the statute may have a different fate in the 3rd Circuit," said Griffin Finan, a gaming attorney at the Ifrah law firm in Washington, D.C.

"New Jersey has some very compelling arguments that the leagues lacked standing and that PASPA is unconstitutional and the 3rd Circuit is much more likely to be receptive to their arguments," Finan said.

In a June 7 response to New Jersey's appeal, former U.S. Solicitor General Paul Clement cited the 3rd U.S. Circuit Court of Appeals decision in 2009.

"Although [Delaware] did not present the anti-commandeering argument New Jersey presses here, the [3rd U.S. Circuit Court of Appeals] did 'find unpersuasive Delaware's argument that its sovereign status requires that it be permitted to implement its proposed betting scheme,'" Clement wrote.

Responding to Clement in a brief filed on June 14, New Jersey attorney Michael Griffinger said in a

footnote that the Delaware case should not be compared to New Jersey's appeal.

"Contrary to the leagues' suggestion, this court did not reject a Tenth Amendment challenge [on grounds of state sovereignty] to PASPA [in the Delaware case]," Griffinger wrote.

"In [the Delaware case], this court was not presented with — and did not consider — the constitutionality of PASPA; rather it considered a question of statutory interpretation regarding the scope of PASPA's exemption for Delaware," wrote Griffinger.

Delaware, Montana and Oregon are granted partial exemptions under PASPA because they allowed some forms of sports betting before the law was passed. Nevada is the only state that is fully exempt from PASPA.

For the first time in a court hearing in this case, the June 26 hearing is expected to pit Clement against the man he succeeded as U.S. Solicitor General — renowned constitutional lawyer Ted Olson, who is representing New Jersey.

In his June 14 brief responding to the leagues and the Justice Department, Olson scoffs at the notion that the leagues could be damaged if New Jersey allows bets on their games.

"Despite the actually undisputed fact that the Leagues have enjoyed unprecedented prosperity while sports wagering in the United States has grown ten-fold since PASPA's enactment into a \$500bn mega-industry, the Leagues dismiss the idea that a court could question their and Congress' 'considered judgment' that they might be injured by the imposition of oversight and regulation on an already existing massive sports wagering industry," Olson wrote.



© Gambling Compliance Ltd · [Privacy Statement](#) · [Terms and Conditions](#) · [Disclaimer](#) · [Contact Us](#) ·  
Drupal Development, Hosting and Support by [Code Enigma](#)  
WLA associate member

### Source URL:

<http://www.gamblingcompliance.com/node/51756?fastlogin=notifications/nyLj7Q&statmid=1692331>

### Links:

- [1] <http://www.gamblingcompliance.com/author/17356>
- [2] <http://www.gamblingcompliance.com/node/38815>
- [3] <http://www.gamblingcompliance.com/node/49240>
- [4] <http://www.gamblingcompliance.com/node/51445>
- [5] <http://www.gamblingcompliance.com/node/51053>
- [6] <http://www.gamblingcompliance.com/node/49734>

