

Free speech win as Third Circuit dismisses case against employer over tweet

PHILADELPHIA, PA (May 20, 2022): Today, the Third Circuit Court of Appeals [dismissed a claim](#) filed against Ben Domenech, co-founder of [The Federalist](#), for a tweet he shared to his personal Twitter account. In June 2019, Mr. Domenech jokingly posted to his personal account: “FYI @fdrlst first one of you tries to unionize I swear I’ll send you back to the salt mine.” Mr. Domenech’s employees, two of whom are [represented](#) by Southeastern Legal Foundation ([SLF](#)), understood the tweet was a joke. But a third party with no connection to Mr. Domenech or The Federalist did not get the joke and reported Mr. Domenech to the National Labor Relations Board (NLRB) for “threatening” his employees.

Ignoring The Federalist employees’ [sworn affidavits](#) that they found Mr. Domenech’s tweets humorous and satirical, the administrative law judge and the NLRB found that by making a joke on his personal Twitter account, Mr. Domenech was threatening his employees in violation of the National Labor Relations Act (NLRA). But as SLF argued in its [amicus brief](#) supporting Mr. Domenech, such a ruling would give cancel culture a green light, posing grave consequences for freedom of speech. The Third Circuit agreed, finding that Mr. Domenech’s joke was just that--a joke.

“This case is an important step in combatting cancel culture,” says SLF Attorney and Director of the 1A Project [Cece O’Leary](#). “The courts are an imperative tool in the fight to protect free speech. And as the Third Circuit has made clear, attempts to silence and repress speakers will not be tolerated by a court of law.”

Adds SLF General Counsel [Kimberly Hermann](#), “We applaud our clients for standing up and speaking out in support of their employer when he was wrongly accused of threatening them via Twitter. Together with Mr. Domenech, their courage in the face of the cancel culture mob must be commended.”