

No. 18-618

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IN THE  
**Supreme Court of the United States**

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IAN GROVES,

Petitioner,

v.

SYLVIA GALLANT, FRANK DOVE, AND JILLIAN HOFFMAN,

Respondents.

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On Writ of Certiorari to the  
United States Court of Appeals for the Ames Circuit

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**JOINT APPENDIX**

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**SUPREME COURT OF THE UNITED STATES**

**ORDER LIST**

**Certiorari Granted**

September 7, 2018

18-618 Groves v. Gallant

The petition for a writ of certiorari is granted on the following two questions:

1. Whether Ames Rev. Stat. § 18-133(a) violates the Second Amendment as applied to petitioner.
2. Whether Ames Rev. Stat. § 18-726(a) violates the Free Speech Clause of the First Amendment.

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE AMES CIRCUIT**

IAN GROVES

v.

Docket No. 17-1611

SYLVIA GALLANT ET AL.

Before Siler, Drake, and McPherson, Circuit Judges.

SILER, J.:

The State of Ames, like other jurisdictions in the United States, has enacted laws designed to regulate and address the threats posed by firearms. This case involves a challenge to two of those laws. First, Ames Rev. Stat. § 18-133(a) prevents certain individuals from possessing firearms based on their prior criminal history. Second, Ames Rev. Stat. § 18-726(a) prevents individuals from publishing computer files on the Internet that can be accessed in Ames and used to automatically program a three-dimensional (3D) printer to print a firearm.

Plaintiff-Appellant Ian Groves is an Ames resident who was convicted many years ago on three misdemeanor counts of manufacturing fake identification documents. Because those crimes were punishable by more than two years of imprisonment, Groves's prior convictions disable him from possessing firearms under Ames Rev. Stat. § 18-133(a). By all accounts, Groves has led a law-abiding life since he was convicted of those crimes, and he now wishes to possess a firearm for self-defense and the defense of his family. He contends that applying the ban on gun possession to him violates the Second Amendment to the U.S. Constitution.

In addition, Groves has developed expertise in Computer Aided Design (CAD) technology, which is a form of computer code that can program a 3D printer to print 3D objects.

Groves has created a CAD file that can be used to print a 3D firearm. Groves wishes to upload the CAD file to the Internet without geographic restriction so that it is accessible to individuals in Ames, but he is prohibited from doing so by Ames Rev. Stat. § 18-726(a). That statute, Groves contends, infringes his free speech rights, in violation of the First Amendment to the U.S. Constitution.

Groves sued various Ames officials in their official capacity, asserting that their enforcement of these laws violates the Constitution. The parties thereafter cross-moved for summary judgment. The district court upheld the constitutionality of both laws and granted summary judgment in favor of the defendants.

On appeal, Groves presses his claims that Ames Rev. Stat. § 18-133(a) violates the Second Amendment and Ames Rev. Stat. § 18-726(a) violates the free speech component of the First Amendment. We hold that Groves cannot succeed on either claim, and we therefore affirm.

## I.

The facts relevant to this appeal are undisputed. Ian Groves, an Ames resident who has completed a firearms safety course, is a lifelong firearms enthusiast who previously lawfully owned several guns. In 2002, while he was a college student, Groves pleaded guilty in state court to three counts of manufacturing a false identification document, a misdemeanor subject to possible imprisonment for up to five years. Ames Rev. Stat. § 18-610; see Ames. Rev. Stat. § 104(a). Despite the statutory authorization of a term of imprisonment for those crimes, Groves was sentenced only to three years of probation and ordered to pay a \$900 fine and \$880 in court costs. He successfully completed his term of probation and paid the fine and costs. His criminal record shows no subsequent offenses. In the years following his convictions, Groves completed

college, obtained a graduate degree in computer science, and founded a successful computer repair business. Groves got married in 2009 and has two young daughters.

Groves's misdemeanor convictions triggered the bar in Ames Rev. Stat. § 18-133(a), which prohibits the possession of firearms by any person who is "prohibited from possessing firearms or ammunition under federal law." Under federal law, an individual who has been convicted of a state misdemeanor punishable by more than two years of imprisonment may not possess guns or ammunition. 18 U.S.C. § 922(g)(1); see 18 U.S.C. § 921(a)(20)(B). Accordingly, upon his judgments of conviction in 2002, Groves surrendered his firearms and his handgun carry license was revoked.

In recent years, Groves developed an interest in 3D-printing technology. "In the simplest terms, 3D printing is a form of manufacturing that operates similarly to a paper printer. The primary difference is, instead of combining ink on a flat surface to form words or pictures, a 3D printer builds a particular item up layer by layer in accordance with file specifications." Barton Lee, *Where Gutenberg Meets Guns: The Liberator, 3D-Printed Weapons, and the First Amendment*, 92 N.C. L. Rev. 1393, 1395 (2014). Groves took courses in and became highly skilled at creating CAD files, a form of computer code that automatically programs a 3D printer to print a 3D object. In keeping with his interest in firearms, Groves created a CAD file that can be used to automatically print a 3D weapon he has named "The Releaser."

State law prevents Groves from making the CAD file for The Releaser available in Ames on the Internet. In 2017, the Ames Legislature enacted the 3D-Printed Gun Violence Prevention Act, which prohibits individuals from publishing on the Internet accessible in Ames "digital instructions in the form of Computer Aided Design files or other code that can automatically program a three-dimensional printer or similar device to produce a firearm or complete a firearm

from an unfinished frame or receiver.” Ames Rev. Stat. § 18-726(a). Legislative findings accompanying the statute emphasize the risk posed by dangerous individuals in Ames who cannot lawfully possess firearms and may have difficulty obtaining guns through traditional channels, but who could easily access CAD files for firearms and print them on 3D printers. The legislative findings also emphasize that 3D-printed firearms lack serial numbers and can be made out of plastic, making it difficult to trace the guns and allowing individuals who possess them to evade detection by metal detectors at security checkpoints. The Ames Legislature found that the proliferation of 3D-printed firearms would endanger public safety and undermine the state regulatory scheme governing firearms. The legislature accordingly sought to regulate the computer code that can be used to automatically program a 3D printer to make a 3D gun in Ames.

Groves believes that the statutes prohibiting his possession of guns and prohibiting the publication of computer code to print 3D guns violate his constitutional rights. He wishes to possess firearms for self-defense and the defense of his family, and he contends that Ames Rev. Stat. § 18-133(a) violates the Second Amendment as applied to him. He also wishes to upload his CAD file for The Releaser to the Internet and make the file available to anyone in Ames, and he contends that Ames Rev. Stat. § 18-726(a) violates his First Amendment free speech rights by criminalizing that conduct. Groves accordingly sued Ames Governor Sylvia Gallant, Superintendent of the Ames State Police Frank Dove, and Ames Attorney General Jillian Hoffman in their official capacities, seeking declaratory relief and an injunction against enforcement of the two challenged statutes.<sup>1</sup>

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<sup>1</sup> Because Groves has sued the defendants in their official capacities, we hereafter refer to the defendants collectively as “the State.”

The district court rejected Groves's arguments and granted summary judgement in favor of the State. This appeal followed.

## II.

We first consider Groves's argument that the bar on firearms possession in Ames Rev. Stat. § 18-133(a) violates the Second Amendment as applied to him.<sup>2</sup> Groves does not dispute the facial validity of statutes barring dangerous individuals from possessing firearms, but he contends that such statutes are susceptible to as-applied challenges brought by individuals covered by the statutes who can show that they do not pose a greater threat to society than the average law-abiding citizen. Groves argues that he can make that showing based on an examination of his criminal offenses, his subsequent conduct, and his personal circumstances. Groves contends that his offenses do not qualify as serious because they were classified by the state as misdemeanors, did not involve violence, and did not result in a sentence of imprisonment. Groves also emphasizes the passage of time since the commission of his crimes and his clean record since he was convicted. He urges us to conclude that the bar on firearms possession cannot constitutionally be applied to him.

The State argues that convicted felons, defined to include anyone whose crimes were punishable by more than one year of imprisonment, even if classified as a misdemeanor, fall outside the Second Amendment's protections. Accordingly, the State contends that laws disarming felons are valid in all of their applications and cannot be challenged on an as-applied basis under the Second Amendment. The State further argues that Ames Rev. Stat. § 18-133(a) would withstand scrutiny even if it imposed some burden on Second Amendment rights. In the

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<sup>2</sup> Groves has also filed a parallel action challenging 18 U.S.C. § 922(g)(1) as a violation of the Second Amendment as applied to him. That action was stayed pending resolution of this appeal, which is dispositive of the parallel suit given the overlap between Ames Rev. Stat. § 18-133(a) and 18 U.S.C. § 922(g)(1).



State's view, intermediate scrutiny would apply and would be satisfied because the bar on firearms possession serves the government's significant interest in ensuring public safety and is substantially related to that interest because felons are more likely to commit violent crimes than citizens with no criminal record. The State asserts that Groves's approach of seeking an individualized determination of his future dangerousness is unsound in principle and unworkable in practice.

Analysis of the Second Amendment issue must begin by considering the Supreme Court's decision in *District of Columbia v. Heller*, 554 U.S. 570 (2008). There, the Supreme Court held that the Second Amendment protects "the right of law-abiding, responsible citizens" to possess handguns for self-defense in the home. *Id.* at 635. The Court further stated, however, that "the right secured by the Second Amendment is not unlimited" and "nothing in [its] opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons." *Id.* at 626. Two years later, a plurality of the Court reiterated the "assurance[]" that the holding in *Heller* did not undermine the general validity of felon-in-possession laws. *McDonald v. City of Chicago*, 561 U.S. 742, 786 (2010). But the Supreme Court has not considered an as-applied Second Amendment argument akin to the one Groves advances here.

Our sister circuits have confronted as-applied challenges like this one and have split on the question whether the federal felon-in-possession ban, which the Ames statute effectively mimics, is unconstitutional as applied to some individuals subject to the bar. In a divided en banc opinion, the Third Circuit recently upheld as-applied challenges to the federal felon-in-possession statute. *Binderup v. Attorney General United States*, 836 F.3d 336 (3d Cir. 2016) (en banc), cert. denied, 137 S. Ct. 2323 (2017). The thorough opinions in that case highlight the competing historical evidence and the various arguments in support of and against crediting an

argument like the one Groves advances here. In contrast to the conclusion reached by the en banc Third Circuit, other courts of appeals have held that the felon-in-possession statute is not subject to individualized as-applied challenges, see, *e.g.*, *United States v. McCane*, 573 F.3d 1037, 1047 (10th Cir. 2009), cert. denied, 559 U.S. 970 (2010), or that it is constitutional even as applied to non-violent offenders like Groves, see, *e.g.*, *United States v. Pruess*, 703 F.3d 242, 247 (4th Cir. 2012) (collecting cases).

We consider it a close and difficult question whether Ames Rev. Stat. § 18-133(a) violates the Second Amendment as applied to Groves, but we ultimately find the statute constitutional for the reasons articulated in the dissenting opinion in *Binderup*. The Second Amendment does not prevent state legislatures from disarming individuals who commit serious crimes. Ames Rev. Stat. § 18-133(a), which relies on federal law to define the class of individuals prohibited from possessing firearms, reasonably circumscribes the universe of criminal offenses that count as serious. And to the extent the statute burdens Second Amendment rights, it satisfies intermediate scrutiny because it is tailored to the substantial governmental interest in preventing armed violence by those who have a track record of committing crimes. Groves’s as-applied challenge to Ames Rev. Stat. § 18-133(a) therefore must fail.

### III.

We next consider Groves’s argument that the 3D-Printed Gun Violence Prevention Act, Ames Rev. Stat. § 18-726, violates the free speech component of the First Amendment.<sup>3</sup> Groves first contends that the CAD file he wishes to publish on the Internet and make available in Ames

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<sup>3</sup> We note that Groves has not challenged Ames Rev. Stat. § 18-726 on any ground other than his claim that it violates his free speech rights. We accordingly confine our analysis of the statute to that First Amendment argument.

constitutes protected speech. Groves observes that several circuit courts have held that computer code qualifies for First Amendment protection. See, e.g., *Universal City Studios, Inc. v. Corley*, 273 F.3d 429, 449-450 (2d Cir. 2001) (“[C]omputer code conveying information is ‘speech’ within the meaning of the First Amendment.”). Groves next argues that the 3D-Printed Gun Violence Prevention Act regulates that speech on the basis of its content, which triggers strict scrutiny. See *Defense Distributed v. United States Dep’t of State*, 838 F.3d 451, 469 (5th Cir. 2016) (Jones, J., dissenting) (expressing the view that an export regulation limiting an individual’s ability to publish CAD files for 3D firearms constituted a “content-based restriction on the [challengers’] domestic speech ‘because of the topic discussed’”) (quoting *Reed v. Town of Gilbert*, 135 S. Ct. 2218, 2227 (2015)). Groves contends that the State cannot show that the Act serves a compelling interest and is narrowly tailored to that interest because, among other things, Ames could have prohibited the actual act of printing a 3D gun, instead of prohibiting individuals from publishing the CAD files that can be used to automatically program a 3D printer to print the firearms.

The State responds that the computer code files covered by the 3D-Printed Gun Violence Prevention Act are not protected by the First Amendment. The State asserts that this particular kind of computer code does not count as speech because it is not intended to convey information to a human listener but instead simply sets in motion the automatic manufacture of a firearm by a machine. The State further observes that some courts have held that speech that facilitates the commission of a crime falls outside the First Amendment’s protection. See, e.g., Eugene Volokh, *Crime-Facilitating Speech*, 57 Stan. L. Rev. 1095, 1129-1131 (2005) (collecting cases). Finally, the State contends that the Act is constitutional even if it triggers First Amendment scrutiny. The State notes that one district court found that a regulation of computer code that

could be used to automatically program 3D printers to print firearms was content neutral and survived intermediate scrutiny because it was “aimed not at suppressing a message, but at other ‘secondary effects.’” *Defense Distributed v. U.S. Dep’t of Justice*, 121 F. Supp. 3d 680, 693 (W.D. Tex. 2015) (quoting *Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 47-48 (1986)), *aff’d* on other grounds, 838 F.3d 451 (5th Cir. 2016). The State argues that the Act survives any level of scrutiny because the State has a compelling interest in protecting public safety and the statute is narrowly tailored to the goals of preventing the proliferation of untraceable and undetectable firearms that may be easily printed by dangerous individuals who cannot lawfully possess guns.

The First Amendment challenge in this case raises a number of novel and complex issues that are not amenable to easy resolution. Existing First Amendment doctrine seems in many respects deficient when dealing with a challenge to an emerging technology like the use of a 3D printer to print firearms. We urge the Supreme Court to weigh in and clarify whether and how the First Amendment applies to protect CAD files like those at issue in this case.

Although there are strong arguments on both sides, we are ultimately persuaded by the State’s arguments that the 3D-Printed Gun Violence Prevention Act does not violate the First Amendment. We are not convinced that these computer files should be deemed to be speech, given their non-expressive functional use to print a dangerous object and the potential of the files to facilitate the commission of crimes. And even if the CAD files are protected speech, we cannot conclude that the 3D-Printed Gun Violence Prevention Act amounts to a content-based regulation. In any event, we think the statute survives First Amendment scrutiny in light of the State’s compelling interest in protecting public safety and the Act’s tailored approach of cutting off access in Ames to CAD files that could be used by dangerous individuals to print a firearm

with one click of a button. To use an apt turn of phrase, we believe a holding in Groves's favor would truly weaponize the First Amendment.

IV.

For the foregoing reasons, the district court's judgment granting summary judgment in favor of the State is

AFFIRMED.

**FILED: APRIL 19, 2018**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF AMES**

IAN GROVES, Plaintiff

v.

SYLVIA GALLANT, FRANK DOVE, and  
JILLIAN HOFFMAN, Defendants

Civil Action No. \_\_\_\_\_

U.S. District Court  
District of Ames

**FILED**

March 20, 2017

**VERIFIED COMPLAINT**

Plaintiff Ian Groves, an individual living in Ames, by and through undersigned counsel, hereby files suit against Governor Sylvia Gallant, Governor of the State of Ames in her official capacity; Frank Dove, Superintendent of the Ames State Police in his official capacity; and Jillian Hoffman, Attorney General of the State of Ames in her official capacity, and alleges as follows:

**INTRODUCTION**

1. This is a suit for declaratory and injunctive relief to declare unconstitutional as applied to petitioner and enjoin the operation of Ames Rev. Stat. §§ 18-133(a) and 18-726(a). Section 18-133(a) violates the Second Amendment to the United States Constitution as applied to petitioner, and Section 18-726(a) violates the Free Speech Clause of the First Amendment to the United States Constitution. Plaintiff's claims are brought pursuant to 42 U.S.C. § 1983, and relief is sought under that section and under 42 U.S.C. § 1988 and 28 U.S.C. §§ 2201 and 2202.

**JURISIDCTION AND VENUE**

2. This action arises under the Constitution and laws of the United States. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 and 1343(a).

3. Plaintiff's claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202 and 42 U.S.C. § 1983, by Rules 57 and 65 of the Federal Rules of Civil Procedure, and by the general legal and equitable powers of this Court.

4. Venue lies in this Court pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2) because defendants reside in the District for purposes of venue, and because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District.

### **PARTIES**

5. Plaintiff Ian Groves is a natural person and citizen of Ames and of the United States, residing in Ames City, Ames. Groves presently intends to purchase a long gun and a handgun for self-defense and defense of his family within his own home, but he is prevented from doing so by defendants' active enforcement of Ames Rev. Stat. § 18-133(a). Groves also presently intends to publish on the Internet and make available for access in Ames a Computer Aided Design (CAD) file for a handgun, but he is prevented from doing so by defendants' active enforcement of Ames Rev. Stat. § 18-726(a).

6. Defendant Sylvia Gallant is sued in her official capacity as the Governor of Ames. As Governor, Gallant is responsible for executing and administering laws, customs, practices, and policies of the State of Ames, and is presently enforcing the laws, customs, practices and policies complained of in this action.

7. Defendant Frank Dove is sued in his official capacity as Superintendent of the Ames State Police. As Superintendent of the Ames State Police, Dove is responsible for executing and administering laws, customs, practices, and policies of the State of Ames, and is presently enforcing the laws, customs, practices and policies complained of in this action.

8. Defendant Jillian Hoffman is sued in her official capacity as Attorney General of the State of Ames. As Attorney General, Hoffman is responsible for executing and administering laws, customs, practices, and policies of the State of Ames, and is presently enforcing the laws, customs, practices and policies complained of in this action.

### **FACTS**

#### **A. Relevant Statutes**

9. Ames Rev. Stat. § 18-133(a), which was first enacted by the Ames Legislature in 1939, prohibits the possession of firearms by any person “who is a fugitive from justice or is a person prohibited from possessing firearms or ammunition under federal law.” A violation of this provision is a felony criminal offense punishable by fine and imprisonment of up to five years. Ames Rev. Stat. § 18-133(b). Attached to this complaint as Exhibit A is a true and correct copy of Ames Rev. Stat. § 18-133.

10. Federal law prohibits the possession of firearms by any person convicted of “a crime punishable by imprisonment for a term exceeding one year.” 18 U.S.C. § 922(g)(1). The term “crime punishable by imprisonment for a term exceeding one year” “does not include . . . any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.” 18 U.S.C. § 921(a)(20)(B). Thus, the ban on possession of a firearm applies to individuals convicted of state misdemeanors carrying statutory sentencing ranges exceeding two years.

11. The offense of manufacturing a false identification card is a first-degree misdemeanor in Ames punishable by up to five years of imprisonment. Ames Rev. Stat. § 18-610; see Ames. Rev. Stat. § 104(a). Attached to this complaint as Exhibit D is a true and correct copy of Ames Rev. Stat. § 18-610. Attached to this complaint as Exhibit E is a true and



correct copy of Ames. Rev. Stat. § 104. Although a conviction for manufacturing a false identification card is classified as a misdemeanor in Ames, it triggers the prohibition in Ames Rev. Stat. § 18-133(a) on possessing a firearm.

12. On February 13, 2017, the Ames Legislature enacted the 3D-Printed Gun Violence Prevention Act, Senate Bill 132/House Bill 1229, which was codified at Ames Rev. Stat. § 18-726. Section 18-726(a) prohibits any individual from “mak[ing] available in Ames through publication over the Internet digital instructions in the form of Computer Aided Design files or other computer code that can automatically program a three-dimensional printer to produce a firearm or complete a firearm from an unfinished frame or receiver.” A violation of this provision is a felony criminal offense punishable by fine and imprisonment of up to five years. Ames Rev. Stat. § 18-726(b). Attached to this complaint as Exhibit B is a true and correct copy of the legislative findings accompanying the enactment of the 3D-Printed Gun Violence Prevention Act. Attached to this complaint as Exhibit C is a true and correct copy of Ames Rev. Stat. § 18-726.

B. Plaintiff's Background

13. Ian Groves was born on March 16, 1981, and was raised in the rural area of Allentown, Ames. Groves has been a lifelong firearms enthusiast. While Groves was growing up, his family owned several firearms for self-protection. When he was 14, Groves completed a firearms safety course and obtained a firearms safety certificate. Groves thereafter possessed a long gun, in compliance with Ames law. When he turned 18, Groves obtained a carry license and purchased a handgun for self-protection.

14. Groves is not under indictment, has never been convicted of a felony or a misdemeanor crime of domestic violence, is not a fugitive from justice, is not an unlawful user of

or addicted to any controlled substance, has not been adjudicated a mental defective or committed to a mental institution, has not been discharged from the Armed Forces under dishonorable conditions, has never renounced his citizenship, and has never been the subject of a restraining order relating to an intimate partner.

15. In 2001, when he was attending college at Delphian University in Ames, Groves manufactured three fake identification cards for his own use and for the use of two classmates so that they could access local bars. As a result, on November 16, 2001, he was arrested on charges of manufacturing false identification cards, in violation of Ames Rev. Stat. § 18-610(a). Attached to this complaint as Exhibit F is a true and correct copy of the police criminal complaint that resulted in Groves's arrest.

16. In January 2002, Groves pleaded guilty to three counts of manufacturing false identification cards, in violation of Ames Rev. Stat. § 18-610(a). The Court of Common Pleas of Bowden County sentenced Groves to three years of probation, which he successfully completed, and assessed fines of \$900 and court costs of \$880, which he paid. Attached to this complaint as Exhibit G is a true and correct copy of the judgment of conviction and sentencing order in that case, which was docketed as Criminal Case 4127-2001.

17. Groves's convictions for manufacturing false identification cards disabled him from possessing firearms pursuant to Ames Rev. Stat. § 18-133(a). Groves accordingly sold his firearms to a licensed dealer when he became prohibited from possessing them, and his handgun carry license was revoked.

18. Groves acknowledges that his behavior in 2001 was wrong. But ever since he was convicted of these misdemeanor crimes, he has committed himself to live a law-abiding and productive life. Groves graduated from college with a B.S. degree. He obtained a Masters of

Computer Science graduate degree from Ames University in 2007. In 2008, Groves founded Ames Repair-IT, a computer repair service business. He has successfully owned and operated the business through the present day and he currently employs a staff of eight individuals. In 2009, Groves married his college sweetheart, Elise French. They have two daughters, born in 2011 and 2013. Groves has not been convicted of any further offenses.

19. Groves desires and intends to possess a long gun and a hand gun for self-defense and for the defense of his family. Groves refrains from possessing firearms only because he reasonably fears arrest, prosecution, incarceration, and fine.

20. On March 14, 2017, Groves approached firearms licensee in Ames City, expressed his desire to purchase a gun, and inquired whether he could do so considering the fact that he had been convicted 15 years ago of state misdemeanor crimes that were punishable by up to five years of imprisonment. The dealer confirmed that Groves could not purchase a firearm.

21. In recent years, Groves has become interested in creating CAD files to be used with 3D printer technology. In 2015, Groves completed an intensive course for using CAD software. Groves also purchased a 3D printer. Groves has become highly skilled at creating CAD files. In late 2016, Groves completed a CAD file that can be used to print a .38 caliber, single-shot handgun on a 3D printer. Groves has named the handgun "The Releaser." The design for The Releaser includes a hole for one non-functional component intended to make the firearm detectable, and the instructions state that users should epoxy a six-ounce slug of steel in the hole. In December 2016, Groves provided the CAD file to a friend who confirmed that he had been able to successfully print and test The Releaser.

22. Groves believes that the government has no business regulating firearms in violation of the Second Amendment. To enhance the ability of individuals in Ames to exercise their

Second Amendment rights, he wishes to share his CAD file for The Releaser online, so that Ames residents can freely and inexpensively print handguns for use in self-defense and the defense of others. Groves refrains from publishing the CAD file for The Releaser on the Internet only because he reasonably fears arrest, prosecution, incarceration, and fine.

23. On March 3, 2017, Groves was quoted in an article in the Ames Daily Tribune about the recent enactment of the 3D-Printed Gun Violence Prevention Act. Groves expressed his view that the law violates the First Amendment by preventing the publication of CAD firearms files on the Internet accessible in Ames. In the article, Groves stated that he had created a CAD file for The Releaser and that he believed he could lawfully publish the file on the Internet because the 3D-Printed Gun Violence Prevention Act is unconstitutional and cannot be enforced.

24. On March 6, 2017, Groves received a cease-and-desist letter from Ames Governor Sylvia Gallant. The letter demanded that Groves “immediately stop all plans for publishing 3-D printable gun files for use in Ames.” Attached to this complaint as Exhibit H is a true and correct copy of the cease-and-desist letter Groves received from Governor Gallant.

## **CAUSES OF ACTION**

### **COUNT I**

#### **Ames Rev. Stat. § 18-133(a) Violates the Second Amendment As Applied To Groves**

25. Groves realleges Paragraphs 1-24 as if fully set forth herein.

26. This is an action for declaratory and injunctive relief to have Ames Rev. Stat. § 18-133(a) declared unconstitutional and unenforceable as applied to Groves because it violates the Second Amendment to the United States Constitution.

27. The Second Amendment guarantees “the right of the people to keep and bear arms.” U.S. Const. amend. II.

28. Groves is a responsible, law-abiding American citizen. He has no history of violent behavior, or of any other conduct that would suggest he would pose any more danger by possessing firearms than an average, law-abiding responsible citizen. Groves is unlikely to act in a manner dangerous to public safety, and his possession of firearms would not be contrary to the public interest.

29. Because of Groves's unique personal circumstances, including but not limited to the nature of his misdemeanor convictions, the passage of time since his convictions, his law-abiding record over the ensuing years, his trustworthiness with firearms, and the lack of danger that his possession of firearms would pose, it is unconstitutional to apply against Groves, personally, the firearms prohibition of Ames Rev. Stat. § 18-133(a), on account of his misdemeanor convictions in 2002 for manufacturing false identification cards, in violation of Ames Rev. Stat. § 18-610(a).

## **COUNT II**

### **Ames Rev. Stat. § 18-726 Violates the First Amendment**

30. Groves realleges Paragraphs 1-24 as if fully set forth herein.

31. This is an action for declaratory and injunctive relief to have Ames Rev. Stat. § 18-726 declared unconstitutional and unenforceable as a violation of the Free Speech Clause.

32. The Free Speech Clause of the First Amendment, incorporated against the States under the Fourteenth Amendment, provides that the State of Ames "shall make no law . . . abridging the freedom of speech." U.S. Const. amend. I.

33. Ames Rev. Stat. § 18-726(a) prohibits Groves from uploading to the Internet for access in Ames a CAD file for a firearm that he has created and wishes to share with others. That provision violates Groves's First Amendment right to freedom of speech.

### **PRAYER FOR RELIEF**

WHEREFORE, in light of the foregoing, Groves respectfully requests that judgment be entered in his favor and against defendants as follows:

A. A declaration that Ames Rev. Stat. § 18-133(a) cannot be applied against Ian Groves on account of his 2002 misdemeanor convictions for manufacturing false identification cards in violation of Ames Rev. Stat. § 18-610(a).

B. A declaration that Ames Rev. Stat. § 18-726(a) cannot be applied against Ian Groves to prohibit him from publishing on the Internet for access in Ames CAD firearms files he has created.

C. An order permanently enjoining defendants, their officers, agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of the injunction, from enforcing Ames Rev. Stat. §§ 18-133(a) and 18-726(a) against Ian Groves.

D. Award Ian Groves the costs of litigation, including reasonable costs, expenses, disbursements, and attorneys' fees; and

E. Grant such other relief as may be just and proper.

Dated: March 20, 2017

Respectfully submitted,

*Abigail Flemming*

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**EXHIBIT A**

**AMES REVISED STATUTES  
Section 18-133**

(a) No person who is a fugitive from justice or is a person prohibited from possessing firearms or ammunition under federal law shall own, possess, or control any firearm or ammunition therefor.

(b) Any person knowingly violating this section shall be guilty of a felony and, upon conviction thereof, shall be fined not more than Five Thousand Dollars (\$ 5,000.00), or committed to the custody of the State Department of Corrections for not more than five (5) years, or both.

## **EXHIBIT B**

**Ames Senate — 2017**

**SB 132**

By Senator Biddle

### **A bill to be entitled**

**The 3D-Printed Gun Violence Prevention Act**; creating Section 18-726, Ames Revised Statutes.

### **Section 1: Findings**

The Ames Legislature finds the following:

- (1) Three-dimensional (“3D”) printing, involves the programming of a 3D printer with a computer file that provides the schematics for the item to be printed.
- (2) In recent years, 3D printers have become relatively inexpensive and easily accessible.
- (3) Recent technological developments have allowed individuals to print firearms or firearm components on 3D printers. Those parts can be made out of plastic.
- (4) Because 3D printing allows individuals to make their own firearms entirely out of plastic, they may be able to evade detection by metal detectors at security checkpoints. Such guns accordingly may be secretly carried into areas where guns are prohibited, such as on airplanes or into schools.
- (5) If computer code to program a 3D printer to print a firearm is freely available online in Ames, a substantial risk exists that dangerous people, including felons, domestic abusers, and other people prohibited from possessing firearms by law, will obtain a firearm through 3D printing. Those individuals may have difficulty obtaining a firearm through traditional means because background checks will reveal their ineligibility to possess a firearm. In addition, such individuals have an incentive to avoid transactions with any third party in order to prevent detection of their unlawful possession of a firearm. Online access to the schematics for the 3D printing of firearms poses the particular risk that individuals prohibited from possessing firearms under state law will be able to circumvent those restrictions and obtain a gun.
- (6) On October 22, 2016, an assailant used a gun he had printed on a 3D printer to kill his ex-wife and two small children in a domestic dispute in Ames City, Ames. The individual was a convicted felon who was prohibited from possessing a firearm under state and federal law. The individual had failed a background check when he tried to purchase a gun from a licensed gun dealer in Ames. The



gun he used was made from an unfinished AR-15-style receiver that he had printed on a 3D printer.

- (7) Firearms tracing is a powerful investigative tool. When law enforcement agencies recover firearms that have been used in crimes, the agencies work to trace those firearms to their first retail purchaser. The agencies can use that information to investigate and solve the crimes.
- (8) Firearms tracing depends on the ability to identify firearms based on their serial number. Traditionally, when a firearm is manufactured domestically or imported from abroad, it is engraved with a serial number and markings that identify the manufacturer or importer, make, model, and caliber, and are unique to the firearm. Firearms made by unlicensed individuals with 3D printers, however, do not contain genuine serial numbers.
- (9) Criminals seek firearms without serial numbers because they cannot be traced. In July 2016, the Ames City Police Department completed a 6-month-long investigation that resulted in the seizure of 42 firearms, some of which had been assembled without serial numbers in order to be untraceable. If the schematics for 3D-printed firearms are available online in Ames, people intending to commit gun crimes may create similarly untraceable firearms in order to avoid detection and accountability for those crimes.
- (10) The proliferation of 3D-printed firearms threatens to undermine the state regulatory scheme and to endanger public safety. By making illegal the online publication of computer code that can be used to automatically program 3D printers to create firearms in Ames, the Ames Legislature seeks not to regulate the rights of computer programmers under the First Amendment to the Constitution, but rather to curb the pernicious effects of untraceable—and potentially undetectable—firearms, particularly when they may be obtained by individuals who are barred from possessing firearms under state law.

## **EXHIBIT C**

### **AMES REVISED STATUTES Section 18-726**

(a) It shall be unlawful for any person to make available in Ames through publication over the Internet digital instructions in the form of Computer Aided Design files or other computer code that can automatically program a three-dimensional printer to produce a firearm or complete a firearm from an unfinished frame or receiver.

(b) Any person knowingly violating this section shall be guilty of a felony and, upon conviction thereof, shall be fined not more than Five Thousand Dollars (\$ 5,000.00), or committed to the custody of the State Department of Corrections for not more than five (5) years, or both.

## **EXHIBIT D**

### **AMES REVISED STATUTES Section 18-610**

#### **Manufacture, sale, or possession of false identification card**

(a) A person commits a misdemeanor of the first degree if he intentionally or knowingly manufactures, makes, alters, sells or attempts to sell an identification card falsely representing the identity, birth date, or age of another.

(b) A person commits a misdemeanor of the third degree if he intentionally or knowingly possesses an identification card falsely representing the identity, birth date, or age of another.

## **EXHIBIT E**

### **AMES REVISED STATUTES Section 18-104**

#### **Sentence of imprisonment for misdemeanors**

A person who has been convicted of a misdemeanor may be sentenced to imprisonment for a definite term which shall be fixed by the court and shall be not more than:

- (1) Five years in the case of a misdemeanor of the first degree.
- (2) Two years in the case of a misdemeanor of the second degree.
- (3) One year in the case of a misdemeanor of the third degree.

**EXHIBIT F**

Ames Court of Common Pleas  
Bowden County

STATE OF AMES

v.

Ian Groves

No. 4127-2001

November 16, 2001

**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of 11/10/2001 in the county of Bowden in the State of Ames, the defendant violated Ames Rev. Stat. § 610(a) (three counts), an offense described as follows: Manufacture of false identification card.

This criminal complaint is based on these facts:

Continued on the attached sheet.

Harold Mims

*Complainant's signature*

Harold Mims, Bowden Police Department Officer

*Printed name and title*

Sworn to before me and signed in my presence.

Date: November 16, 2001

Joseph Flink

*Judge's signature*

City and State: Bowden, Ames

Joseph Flink, District Judge

*Printed name and title*

**Ames Court of Common Pleas  
Bowden County**

STATE OF AMES

v.

IAN GROVES

No. 4127-2001

**AFFIDAVIT OF HAROLD MIMS**

I, Harold Mims, Bowden Police Department Officer, being duly sworn, do hereby depose and state the following:

The affiant is a patrol officer for the Bowden Police Department, Bowden, Ames, and has been so employed as a law enforcement officer for approximately fourteen years. The affiant's principal duties involve investigations into violations of law in Bowden. The affiant is providing this affidavit in support of the State's application for an arrest warrant for Ian Groves. Based upon the results of the investigation described herein, the affiant has cause to believe that Groves committed the following state offense: Manufacture of a false identification card, in violation of Ames Rev. Stat. § 610(a).

On or about November 10, 2001, the Bowden Police Department received a telephone call from Damian Brown, who works as a bouncer at Maggie's Bar and Grill, located at 4330 5th Street in Bowden, Ames. Brown reported that an individual had attempted to enter Maggie's at around 9 p.m. using an identification document that Brown believed to be fake. The affiant was dispatched to Maggie's. Once there, the affiant confirmed that the identification document, which purported to be an Ames driver's license in the name of Samuel McMahon, with a birth date of January 12, 1979, was fake. The affiant interviewed the individual who had presented the fake ID and learned that the individual was named Samuel Peters, with a birth date of January 12, 1982. Peters disclosed that he is a student at Delphian University and that he obtained the fake ID from Ian Groves. Peters stated that Groves is his college roommate and manufactured the ID as a favor to him.

That same evening, the affiant accompanied Peters to the apartment he shares with Groves, and Groves submitted to a voluntary interview. During the interview, Groves admitted that he had manufactured fake identification documents for himself, his roommate Peters, and his girlfriend, Elise French. Groves stated that he had made the identification documents using photo editing software on his computer and a laminator he had purchased from an office supply store. Groves said he had never attempted to sell fake identification documents and he had created the fake IDs for himself and his friends for the sole purpose of allowing them to participate in the university social life by going to bars and clubs before they reached the legal drinking age of 21. Groves expressed remorse for his actions and volunteered to surrender the

laminator and the fake identification documents. The affiant accordingly took possession of the laminator and the fake identification documents from Groves and Peters.

On November 9, 2001, the affiant interviewed Elise French. She confirmed that her boyfriend, Ian Groves, had manufactured a fake ID for her. She confirmed that she did not pay him for the fake ID. She turned over the fake ID to the affiant.

The affiant hereby swears and affirms that the preceding information is true and correct to the best of my knowledge and belief. Based on the above set of facts and circumstances, the affiant is requesting that Ian Groves be made to answer the attached criminal complaint charging him with three counts of manufacturing a false identification document.

Harold Mims

Harold Mims  
Police Officer  
Bowden Police Department

Sworn and subscribed before me  
on this 16th day of November, 2001.

Joseph Flink

District Judge  
Bowden Court of Common Pleas

**EXHIBIT G**

**Ames Court of Common Pleas  
Bowden County**

STATE OF AMES

v.

IAN GROVES

No. 4127-2001

**JUDGMENT IN A CRIMINAL CASE**

The defendant entered a plea of guilty on three counts of violating Ames Rev. Stat. § 610(a), a misdemeanor in the first degree. The defendant is adjudicated guilty of those offenses.

**COUNT & CONVICTION**

| <u>Count</u> | <u>Title &amp; Section</u> | <u>Nature of Offense</u>                       |
|--------------|----------------------------|------------------------------------------------|
| 1            | Ames Rev. Stat. § 610(a)   | Manufacture of a false identification document |
| 2            | Ames Rev. Stat. § 610(a)   | Manufacture of a false identification document |
| 3            | Ames Rev. Stat. § 610(a)   | Manufacture of a false identification document |

**SENTENCING ORDER**

**COUNT:**   1  

**OFFENSE:** Manufacture of false identification document

**COMITTED:**        YR        MO        DAYS

**PROBATION:**   3   YR        MO        DAYS

**FINE:**   \$300 & costs  

**COUNT:**   2  

**OFFENSE:** Manufacture of false identification document

**COMITTED:**        YR        MO        DAYS

**PROBATION:**   3   YR        MO        DAYS

**FINE:**   \$300 & costs



**COUNT:**   3  

**OFFENSE:**   Manufacture of false identification document  

**COMMITTED:**            YR            MO            DAYS

**PROBATION:**   3   YR            MO            DAYS

**FINE:**   \$300 & costs  

### **OTHER TERMS**

Fines to be paid separately.

Terms of probation to run concurrently.

Total costs assessed at \$880.

January 30, 2002

Date of imposition of judgment

Karen L. Black

Signature of Judicial Officer

KAREN L. BLACK

*District Judge*

*Bowden County Court of Common Pleas*

**EXHIBIT H**

*State of Ames*  
*Executive Chamber*

Sylvia Gallant  
Governor

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March 6, 2017

Ian Groves  
1400 20<sup>th</sup> Avenue  
Ames City, Ames

Dear Mr. Groves,

As Governor of the great State of Ames, my greatest responsibility is to ensure the safety of the public. You recently publicly announced your intent to publish online 3D-printable gun computer files for use by Ames residents. That reckless and criminal act would undermine the safety and security of all those in Ames by permitting dangerous individuals to print untraceable, undetectable, and poorly constructed guns. Your act, if carried out, would immediately put the lives of Ames residents in danger and would violate Ames law. You are hereby directed to cease and desist from publishing 3D-printable gun files to be accessed by individuals in Ames.

The risks posed by 3D-printable guns have caused substantial fear and alarm throughout Ames, prompting the Ames Legislature to act to guard against those threats. The files you propose to publish online would allow anyone with a 3D printer in Ames to download your code and make a fully operational gun. Because those guns would not have serial numbers, they would not be traceable by law enforcement if used in the commission of a crime. Such guns can also be produced without any metal, making them completely undetectable by metal detectors. Although you have publicly stated that your design includes a hole for individuals to put a piece of steel in their gun, such a component does not affect the operation of the firearm and so could be ignored by any individual wishing to create an undetectable gun. And individuals who access your 3D-printable gun files will be able to produce guns without a background check, creating an imminent risk that criminals, domestic abusers, and individuals with a history of mental illness who are prohibited by law from possessing guns could easily print weapons based on your design. In Ames, we cherish our safety and hold in great regard commonsense measures that enable law-abiding gun owners to enjoy their firearms while keeping guns from those who would pose a danger. Your actions, if left

unchecked, would gravely threaten Ames's comprehensive scheme for keeping guns out of the hands of dangerous individuals.

The State of Ames stands united against your plan to undermine our public safety. The 3D-Printed Gun Violence Prevention Act clearly prohibits your intended action of making computer code to print 3D guns available online in Ames. As Governor of Ames, I demand that you immediately stop all plans for publishing online 3D-printable gun files for use in Ames.

Sincerely,

*Sylvia Gallant*

Sylvia Gallant

Governor  
State of Ames

**IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF AMES**

IAN GROVES

v.

SYLVIA GALLANT, ET AL.

Civil Action No. 17-1720

**ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND  
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

Before the Court is Plaintiff's motion for summary judgment, Defendants' opposition to that motion, Defendants' motion for summary judgment, and Plaintiff's opposition to that motion. Defendants have not challenged the factual assertions in the complaint or introduced evidence to contradict those assertions, so the Court credits the facts alleged in the complaint and finds that no dispute of material fact exists. Having considered the motions, the case law, and the record evidence, the Court has concluded that Plaintiff cannot succeed on his claims that Ames Rev. Stat. § 18-133 violates the Second Amendment as applied to him and that Ames Rev. Stat. § 18-726 violates the free speech component of the First Amendment. Accordingly, Defendants' motion for summary judgment will be **GRANTED**, and Plaintiff's motion for summary judgment is **DENIED**. The clerk is directed to issue an appropriate judgment and to close the docket of this case.

Dated: September 6, 2017

*E. Gideon Ellison*

United States District Court  
For the District of Ames

**IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF AMES**

IAN GROVES,  
Plaintiff-Appellant

v.

SYLVIA GALLANT, et al.,  
Defendants-Appellees.

Civil Action No. 17-1720

**NOTICE OF APPEAL**

Plaintiff Ian Groves, by and through undersigned counsel, hereby gives notice that he is appealing the judgment entered on September 6, 2017, in the above-captioned matter to the United States Court of Appeals for the Ames Circuit.

Respectfully submitted,

*Abigail Flemming*

Abigail Flemming  
Hill and Hammill, LLP  
5100 S. Ames Blvd  
Ames City, Ames

*Attorney for Plaintiff*

Dated: September 8, 2017