

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 25-3308

YOSEF COHEN,
Appellant

v.

TRUSTEES OF THE UNIVERSITY OF PENNSYLVANIA; J. LARRY JAMESON; JOHN L.
JACKSON, JR.; CRAIG R. CARNAROLI; KATHLEEN SHIELDS ANDERSON; ET AL.

On Appeal from the U.S. District Court, E.D. Pa.
Judge Timothy J. Savage, No. 2:25-cv-04561

Before: PHIPPS, FREEMAN, and ROTH, *Circuit Judges*
Submitted: Oct. 20, 2026; Filed: Oct. 23, 2026

NONPRECEDENTIAL OPINION*

FREEMAN, *Circuit Judge*. Yosef Cohen sued the University of Pennsylvania and several associated individuals (collectively, “Penn”) in state court. Penn removed the case to the United States District Court, which determined that it lacked subject matter jurisdiction and remanded to state court. Cohen then moved for attorney’s fees associated with the removal. The District Court did not abuse its discretion when it denied Cohen’s fee motion, so we will AFFIRM that order.

I.

In 2024, University of Pennsylvania police arrested and detained Cohen for carrying concealed knives on campus. He was issued a citation for violating a provision of the Philadelphia Code that prohibits the possession or use of any “cutting weapon” on public

streets or property in the City of Philadelphia (the “Knife Ban”). Phila. Code § 10-820. The Philadelphia District Attorney’s Office later dismissed the charges, as enforcement of the Knife Ban had been enjoined in *Gilson v. Philadelphia*, No. 23-cv-01734 (E.D. Pa. July 18, 2023).

Cohen then sued Penn in state court. He brought only state-law claims, but he alleged that the “legal background” of his claims was “the unconstitutional Philadelphia Knife Ban.” App. 32 (capitalization omitted). He also alleged that Penn violated state law when it enforced that unconstitutional ordinance.

Asserting that Cohen’s claims are premised upon a federal question—whether the Knife Ban violates the United States Constitution and is unenforceable—Penn removed the case to federal court. The District Court granted Cohen’s motion to remand, determining that it lacked subject matter jurisdiction.

Following the remand, Cohen moved for attorney’s fees. The District Court denied the fee motion, and Cohen timely appealed.

II¹

When a district court remands a removed action for lack of subject matter jurisdiction, the court may award attorney’s fees to the plaintiff. 28 U.S.C. § 1447(c). But, absent unusual circumstances, it may only do so if “the removing party lacked an

¹ The District Court had jurisdiction under 28 U.S.C. § 1441 to consider whether Cohen met the prerequisites for removal to federal court. After remanding the action, the District Court retained jurisdiction under 28 U.S.C. § 1447(c) to rule on the attorney’s fee motion. *See Mints v. Educ. Testing Serv.*, 99 F.3d 1253, 1257 (3d Cir. 1996). We have jurisdiction under 28 U.S.C. § 1291 to review the order on the fee motion.

objectively reasonable basis for seeking removal.” *Martin v. Franklin Cap. Corp.*, 546 U.S. 132, 141 (2005). We review orders on section 1447(c) fee motions for abuse of discretion. *Roxbury Condo. Ass’n, Inc. v. Anthony S. Cupo Agency*, 316 F.3d 224, 226 (3d Cir. 2003). “A district court abuses its discretion by basing its decision on a clearly erroneous finding of fact, an erroneous legal conclusion, or an improper application of law to fact.” *Id.* (citation modified).

The District Court did not abuse its discretion when it concluded that Penn’s basis for asserting subject matter jurisdiction was objectively reasonable (though ultimately unavailing). *See* 28 U.S.C. § 1441 (permitting removal when the district court has subject matter jurisdiction over the action originally filed in state court). District courts have federal-question jurisdiction over state-law claims that “necessarily raise[] a stated federal issue” that is “actually disputed and substantial” and capable of resolution in a federal forum “without disturbing any congressionally approved balance of federal and state power.” *Merrill Lynch, Pierce, Fenner & Smith Inc. v. Manning*, 578 U.S. 374, 383 (2016) (citation modified).

In its removal notice, Penn asserted that Cohen’s claims satisfy this standard because they necessarily raise whether the Knife Ban violates the United States Constitution. Although the District Court disagreed, Penn’s assertion was objectively reasonable.

Recall that Cohen’s complaint was premised upon the constitutionality of the Knife Ban. Cohen now asserts that his repeated use of the word “unconstitutional” in his complaint referred to the Pennsylvania constitution, not the United States Constitution. But

Cohen never specified which constitution made the Knife Ban unenforceable. And his complaint invoked the *Gilson* matter, where the plaintiffs claimed that the Knife Ban violates the United States Constitution's Second Amendment. So the complaint supports Penn's objectively reasonable (although unsuccessful) argument that the District Court had federal question jurisdiction.

* * *

For the foregoing reasons, we will AFFIRM the District Court's order.