

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (1/23/2018 - 1/25/2018 Session)
Tuesday, January 23, 2018

16-0018 [Briefs](#)
Thomas Porter v. David Zook
(Spencer)

HABEAS: Multiple challenges to state capital conviction and sentence.

17-1037 [Briefs](#)
Ian Lyons v. Johns Hopkins Hospital
(Blake)

CIVIL: Whether district court erred when it granted Defendant's summary judgment motion on Plaintiff's ADA discrimination and retaliation claims; other issues.

17-1477 [Briefs](#)
Pedro Jimenez-Cedillo v. Jefferson Sessions
Associations: 17-1893

IMMIGRATION: Whether the Board erred in concluding that Maryland conviction for sexual solicitation of a minor is a crime involving moral turpitude.

PANEL I
Red Courtroom (Room 412)
9:30 a.m.

Tuesday, January 23, 2018

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17-0002 [Briefs](#)
Timothy Richardson v. Edward Thomas
(Boyle)

HABEAS: Appeal from district court's order granting Rule 60(b) relief from prior denial of habeas petition and providing for evidentiary hearing.

16-2316 [Briefs](#)
Bruce Fleming v. Richard V. Spencer
(Bennett)

EMPLOYMENT: Whether CSRA precludes extra-statutory judicial review of constitutional claims; if so, whether administrative exhaustion is required.

17-1149 [Briefs](#)
Continental Casualty Company v.
(Mullen)

CIVIL: Whether district court properly determined that Appellant's umbrella policy provided coverage to subcontractor; other issues.

Associations: 17-1208

PANEL II
Butzner Courtroom 201
9:30 a.m.

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17-6746 [Briefs](#) HABEAS: Whether district court erred in granting habeas relief and ordering petitioner resentenced under Miller v. Alabama.
Lee Malvo v. Randall Mathena
(Jackson)
Associations: 17-6758

17-4168 [Briefs](#) SENTENCING: Propriety of supervised release condition requiring defendant to take antipsychotic medication.
US v. Anton Caluori
(Eagles)

17-1506 [Briefs](#) CONSTITUTIONAL: Whether plaintiffs lack standing to assert claims against professional board for alleged negligence in failing to protect personal information from identity theft and fraud.
Rhonda Hutton v. National Board of
(Bredar)
Associations: 17-1508

17-1140 [Briefs](#) TORT: Challenge to exclusion of expert evidence and to causation ruling in MDL cases alleging manufacturers' failure to warn of diabetes risk associated with drug.
Plaintiffs Appealing CMO 100 v. Pfizer,
(Gergel)
Associations: 17-1136, 17-1137, 17-1189

PANEL III
Blue Courtroom (Room 339)
9:30 a.m.

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17-1740 Damian Stinnie v. Richard Holcomb (Moon)	Briefs	CONSTITUTIONAL: Standing, abstention and immunity issues related to plaintiffs' challenge to constitutionality of suspension of driver's license based on inability to pay court debt under Va. Code section 46.2-395.
17-1388 David Wood v. Md. Dept. of Transportation (Motz)	Briefs	CIVIL: Whether district court properly dismissed Plaintiff's ADA and Rehabilitation Act action concerning vision requirement for Maryland driver's license.
16-2249 Bobbydyne McMillan v. Cumberland (Dever)	Briefs	CIVIL: Whether district court erred in finding that tenured teacher received adequate notice and opportunity to be heard in connection with disciplinary investigation; other issues.
17-1003 Estate of Wayne A. Jones v. City of (Groh)	Briefs	CIVIL: Whether the district court abused its discretion in denying withdrawal of plaintiff's admissions pursuant to Fed. R. Civ. P. 36(b).

PANEL IV
Gold Courtroom (Room 348)
9:30 a.m.

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16-2317 [Briefs](#)
SD3, LLC v. Black & Decker (U.S.) Inc.
(Hilton)
Associations: 16-2354

ANTITRUST: Whether district court erred in granting summary judgment on group-boycott claims; waiver of attorney-client privilege issue on cross-appeal.

16-2353 [Briefs](#)
Craig Waters v. Logistics Management
(Hilton)
Associations: 17-1056

CIVIL: Whether district court erred when it granted Defendant's summary judgment motion on Plaintiff's ADEA claims and denied Defendant's motion for sanctions; other issues.

17-1342 [Briefs](#)
Bruce Levine v. Employers Ins. Co. of
(Lee)
Associations: 17-1432

INSURANCE: Was vehicle being operated at time of accident a "covered auto" for purposes of UM/UIM insurance.

17-1585 [Briefs](#)
The Walter E. Campbell Company v. United
(Nickerson)

INSURANCE: Coverage issues under CGL policies with respect to "continuous bodily injury"; pro rata liability; interpretation of "completed operations" or "completed work"; statute of limitations.

PANEL V
Tweed Courtroom (Room 414-D)
9:30 a.m.

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16-4121 [Briefs](#)
US v. Edmund Jenkins
(Urbanski)

CRIMINAL: Whether Virginia convictions for unlawful wounding, malicious wounding, and aggravated malicious wounding are violent felonies under the Armed Career Criminal Act.

17-4111 [Briefs](#)
US v. Vonzell James
(Lauck)

CRIMINAL: Whether Virginia conviction for unlawful wounding constitutes a crime of violence, supporting sentence enhancement under guidelines section 2K2.1(a)(3).

16-1873 [Briefs](#)
Erin Keena v. Groupon, Inc.
(Mullen)

CIVIL: Whether district court's dismissal is appealable after Microsoft v. Baker, 137 S. Ct. 1702 (2017).

PANEL I
Red Courtroom (Room 412)
9:30 a.m.

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16-2358 [Briefs](#)
US v. Damian Phillips
(Biggs)

CIVIL: Whether to use colorable interest test or dominion and control test to determine standing to challenge civil forfeiture; whether Phillips demonstrated standing.

17-6743 [Briefs](#)
Travion Blount v. Harold Clarke
(Allen)

POST-CONVICTION: Issues regarding certified questions to Va. Supreme Court; governor's partial pardon; and effect of U.S. Supreme Court's LeBlanc decision.

17-4005 [Briefs](#)
US v. Larry Recio
(Hazel)

CRIMINAL: Admissibility under Fed. R. Evid. 801(d), 404(b), of defendant's Facebook posting, 8 months after crime, of rap lyric referencing carrying firearm; other issue.

17-1320 [Briefs](#)
Bryan Manning v. Donald Caldwell
(Conrad)

CONSTITUTIONAL: Whether Va. Interdiction Statute, Va. Code sections 4.1-305, 4.1-322, and 4.1-333, as applied, constitutes cruel and unusual punishment or violates due process; equal protection clause challenge.

PANEL II
Butzner Courtroom 201
9:30 a.m.

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17-1222 [Briefs](#)
Janet Hodgins v. UTC Fire & Security
(Bailey)

TELEPHONE CONSUMER PROTECTION ACT: Whether district court erred in granting judgment prior to end of discovery period and in rejecting plaintiffs' ratification theory.

16-4633 [Briefs](#)
US v. Daniel Mathis
(Conrad)

CRIMINAL: Sufficiency of evidence and other challenges to RICO conspiracy, VICAR, obstruction of justice, and witness tampering convictions.

Associations: 16-4635, 16-4637, 16-4641, 16-4837, 16-4838

PANEL III
Blue Courtroom (Room 339)
9:30 a.m.

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17-2166 [Briefs](#) CONSTITUTIONAL: Whether Maryland statute, HB 631, prohibiting price gouging in sale of certain prescription
Assoc. for Accessible Medicine v. Brian Frosh
(Garbis) drugs, violates Commerce Clause.

17-1577 [Briefs](#) CONSTITUTIONAL: Whether municipality's sexually oriented business ordinance is unconstitutionally overbroad;
American Entertainers, L.L.C. v. City of
(Dever) whether ordinance imposes unconstitutional prior restraint; other issues.

17-1369 [Briefs](#) ERISA: Whether 29 U.S.C. section 1085(e)(3) (2012) mandated employer pension contributions for employees
Bakery and Confectionary Union v. Just
(Chasanow) hired after collective bargaining agreement expired; other issues.

17-1188 [Briefs](#) ERISA: Whether nonfiduciary liability is cognizable; other issues.
Kimberly Gordon v. Cigna Corporation
(Titus)

PANEL IV
Gold Courtroom (Room 348)
9:30 a.m.

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17-1574 [Briefs](#)
Equitrans, L.P. v. Jeffery Moore
(Stamp)

CIVIL: Whether gas company failed to satisfy the statutory prerequisites of the Natural Gas Act to invoke condemnation power on landowners under 15 U.S.C. section 717f(h); other issues.

17-1592 [Briefs](#)
Craig Cunningham v. General Dynamics
(O'Grady)

CIVIL: Whether the district court properly found Defendant was immune from suit under Yearsley doctrine; other issues.

17-1669 [Briefs](#)
PETA v. Joshua Stein
(Schroeder)

CONSTITUTIONAL: Whether plaintiffs have standing to challenge North Carolina's non-criminal "Anti-Sunshine Law."

PANEL V
Tweed Courtroom (Room 414-D)
9:30 a.m.

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17-1055 [Briefs](#) CIVIL: Whether contempt was civil or criminal where district court based sanctions on liquidated damages clause
Rainbow School, Inc. v. Rainbow Early in settlement agreement without further explanation; other issues.
(Boyle)
Associations: 17-1123

17-4037 [Briefs](#) SENTENCING: Whether defendant's revocation sentence is plainly procedurally unreasonable.
US v. Erick Gibbs
(Fox)

17-1183 [Briefs](#) CIVIL: Whether district court properly dismissed claims under Clean Water Act.
Alan J. Schneider v. Donaldson Funeral
(Motz)

17-4183 [Briefs](#) CRIMINAL: Whether there was a waiver of company's privileges based on its cooperation and disclosure
In re: Grand Jury agreements executed with the government.
(O'Grady)

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Red Courtroom (Room 412)
8:30 a.m.

Thursday, January 25, 2018

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16-1920 [Briefs](#)
Randy Coley v. DIRECTV, Inc.
(Urbanski)

CIVIL: Issues related to Delaware law on applicability of equitable remedy of reverse-veil piercing of limited liability company; other issues.

Associations: 16-1943, 16-1944, 16-1946

17-1272 [Briefs](#)
Emanuella Nnadozie v. Genesis Healthcare
(Bennett)

EMPLOYMENT: Whether district court erred in granting summary judgment on Ezeh's constructive discharge claim and plaintiffs' section 1981 claims based on African ancestry; related issues.

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Butzner Courtroom 201
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17-1216 [Briefs](#) IMMIGRATION: Whether substantial evidence supports the Board's finding that Santos Mejia failed to establish
Maria Santos Mejia v. Jefferson Sessions III eligibility for asylum and withholding of removal.

17-1503 [Briefs](#) TRADEMARK INFRINGEMENT: Challenges to grant of summary judgment on willful infringement; bench ruling on
Variety Stores, Inc v. Wal-Mart Stores, Inc. damages; reduction of disgorged profits award; other issues.
(Boyle)
Associations: 17-1644, 17-1906

15-4780 [Briefs](#) CRIMINAL: Whether challenge to denial of evidentiary hearing regarding pretrial restraint of assets is barred;
US v. Jeffrey Cohen denial of motion for counsel at sentencing; other issues.
(Quarles)

16-6073 [Briefs](#) POST-CONVICTION: Is government's waiver of any savings clause defense binding; does savings clause of section
US v. Gerald Wheeler 2255(e) permit petitioner to obtain relief under section 2241 in form of resentencing.
(Conrad)

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Blue Courtroom (Room 339)
8:30 a.m.

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17-4296 [Briefs](#)
US v. Taison McCollum
(Cogburn)

SENTENCING: Whether conspiracy to commit violent crimes in aid of racketeering activity, 18 U.S.C. section 1959(a)(5) (2012), is crime of violence.

17-4015 [Briefs](#)
US v. Antoine Smith
(Eagles)

CRIMINAL: Whether North Carolina conviction for voluntary manslaughter is violent felony under Armed Career Criminal Act; applicability of appeal waiver.

16-2435 [Briefs](#)
Adonia K. Smith v. Loudoun County Public
(Cacheris)

EMPLOYMENT: Whether there is a genuine issue of material fact concerning employee's termination; related issues.

PANEL IV
Gold Courtroom (Room 348)
8:30 a.m.

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17-1175 [Briefs](#)
Rockville Cars, LLC v. City of Rockville
(Messitte)

CIVIL: Whether district court erred in considering exhibits attached to 12(b)(6) motion; whether plaintiffs pled a procedural due process claim regarding suspension of building permit.

16-2330 [Briefs](#)
Jairo Sanchez v. Jefferson Sessions III

IMMIGRATION: Whether actions of state law enforcement constituted egregious Fourth Amendment violation justifying application of exclusionary rule in civil removal proceedings; other issues.

17-4199 [Briefs](#)
US v. Monclaire Saint Louis
(O'Grady)

CRIMINAL: Whether district court erred in denying motion to suppress identification testimony resulting from challenged photo array; other issues.

Associations: 17-4200

PANEL V
Tweed Courtroom (Room 414-D)
8:30 a.m.

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