

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (5/8/2018 - 5/10/2018 Session)
Tuesday, May 08, 2018

17-4169 [Briefs](#) SENTENCING: Whether defendant can challenge propriety of original sentence in supervised release revocation proceeding.
US v. Daniel Sanchez
(Doumar)

17-2406 [Briefs](#) MOUNTAIN VALLEY PIPELINE: Challenge to certification issued by Virginia Water Control Board and Department of Environmental Quality under Section 401 of the Clean Water Act.
Sierra Club v. State Water Control Board
Associations: 17-2433

17-2399 [Briefs](#) MOUNTAIN VALLEY PIPELINE: Review of Forest Service and Bureau of Land Management decisions authorizing pipeline crossing of Jefferson National Forest.
Sierra Club, Inc. v. United States Forest
Associations: 18-1012, 18-1019, 18-1036

16-2337 [Briefs](#) ADMINISTRATIVE: Whether petition for review is timely; propriety of procedures used by Federal Aviation Administration when considering Part 16 complaint.
Skydive Myrtle Beach Inc. v. Horry County

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

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17-1878	Briefs	CIVIL: Whether district court properly instructed jury on Virginia law regarding mutual assent; other issues.
Knox Energy, LLC v. Gasco Drilling, Inc (Jones)		
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17-1430	Briefs	ENVIRONMENTAL: Did plaintiffs have standing to bring claims addressing all biologically-impaired waters identified in complaint; other issues.
Ohio Valley Environmental v. Scott Pruitt (Chambers)		
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17-1384	Briefs	ANTITRUST: Whether district court erred in dismissing complaint under Fed. R. Civ. P. 12(b)(6) on concluding allegations do not support antitrust injury or antitrust standing.
SCPH Legacy Corporation v. Palmetto Health (Anderson)		
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17-2131	Briefs	CIVIL: Appeal from jury verdict for Plaintiff and denial of post-trial motions in negligence, breach of warranty, and strict liability action.
Crystal Wickersham v. Ford Motor Company (Norton)		

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

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17-2220	Briefs	CIVIL RIGHTS: Challenge to dismissal of Title IX discrimination and retaliation claims and of Equal Protection claim alleging sexual harassment by university; other issues.
Feminist Majority Foundation v. Richard (Gibney)		
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16-7537	Briefs	POST-CONVICTION: Whether counsel was ineffective in failing to investigate credentials of medical examiner who testified that victim died of shaken baby syndrome.
Larry Hayes v. Marvin Plumley (Johnston)		
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17-1087	Briefs	CONTRACT: Whether Westinghouse is entitled to recover costs incurred in design/engineering of nuclear power plant following power company's termination of multi-billion dollar contract.
Duke Energy Florida, Inc. v. Westinghouse (Cogburn) Associations: 17-1151		
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17-4690	Briefs	CRIMINAL: Whether resentencing is required under United States v. Jackson, No. 17-4260 (4th Cir. 2017); whether use of 1991 sentencing guidelines manual was proper; other guidelines issues.
US v. Eddie Fluker (Urbanski)		

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

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17-4266 [Briefs](#)
US v. Anthony Burfoot
(Morgan)

CRIMINAL: Multiple issues regarding city councilman's convictions for conspiracy, honest services wire fraud, obtaining property under color of official right, and perjury following jury trial.

17-1911 [Briefs](#)
Ning Shen v. Sec US Dept Veterans Affairs
(Groh)

EMPLOYMENT: Whether the district court correctly determined that Plaintiff failed to establish the causation prong of her retaliatory discharge prima facie case; other issues.

17-1336 [Briefs](#)
Gerold Berghoff v. Chesapeake Appalachia,
(Bailey)

CIVIL: Whether pooling of leased property complied with terms of oil and gas lease despite delay in written notice to lessor; other issues.

17-1014 [Briefs](#)
360 Mortgage Group, LLC v. Home Point
(Fox)

CIVIL: Whether district court erred in granting Defendant summary judgment on claim for misappropriation of trade secrets.

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

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17-1564	Briefs	CIVIL: Construction of claims as wrongful death rather than fraudulent concealment claims; dismissal of claims as time barred; denial of motion to amend complaint.
Michael D. Michael v. Consolidation Coal (Keeley)		
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17-6447	Briefs	POSTCONVICTION: Whether appellate counsel was ineffective for failing to raise potentially meritorious merger argument.
US v. Christian Allmendinger (Payne)		
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17-1290	Briefs	CIVIL: Propriety of dismissal of IDEA and other federal claims for failure to exhaust state administrative remedies; other issues.
Z.G. v. Pamlico County Public Schools (Dever)		
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16-7506	Briefs	HABEAS: Whether Miller's section 2254 petition was timely filed.
Mark Anthony Miller v. Erik A. Hooks (Schroeder)		

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Red Courtroom (Room 412)
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17-1960 [Briefs](#)
Alan Metzgar v. KBR, Inc.
(Titus)

TORT: Whether district court erred in dismissing service members' claims on political question ground and based upon combatant activities exception in Federal Tort Claims Act.

17-1581 [Briefs](#)
Inner Quest Inc v. Young Life Inc
(Herlong)

CIVIL: Grant of summary judgment on claims for contractual and equitable indemnification.

17-1830 [Briefs](#)
Richard Fletcher v. Maryland Transit Admin
(Motz)

TORT: Whether defendants owed a duty to protect plaintiffs from harm caused by third parties; other issues.

17-1642 [Briefs](#)
US v. William J. Gilliam
(Seymour)

TAX: Whether collection limitation period can be retroactively suspended during "alternative hearing."

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17-2237	Briefs	MEDICAID: Whether enforcement of FAQ 33 was properly enjoined as contravening statutory language and legislative history and because issuance failed to adhere to requisite rulemaking procedures.
Children's Hospital v. Eric Hargan (Smith)		
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17-6763	Briefs	POSTCONVICTION: Whether district court may replace Johnson-infirm ACCA predicate by concluding that convictions originally counted as single predicate are actually multiple predicates.
US v. Jermaine Brisbane (Norton)		
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17-2070	Briefs	IMMUNITY: Appeal from denial of appellants' claim of absolute immunity under the Westfall Act.
U.S. Tobacco Cooperative Inc. v. Big South (Boyle)		
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17-1986	Briefs	TAX: Whether the 90-day limit in I.R.C. 6015(e)(1)(A) for filing an innocent spouse petition is jurisdictional.
Shari Naufflett v. Commissioner of IRS		

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17-1582 [Briefs](#) CIVIL: Whether district court exceeded jurisdiction following remand from MDL court; whether district court erred by finding state claims preempted or insufficiently pled.
Jihad Abdul-Mumit v. Alexandria Hyundai,
(Moon)
Associations: 17-1611, 17-1587

17-1526 [Briefs](#) IMMIGRATION: Whether substantial evidence supports the agency's finding that petitioner failed to establish eligibility for relief from removal.
Sheng Da Dong v. Jefferson B. Sessions III

16-2439 [Briefs](#) EMPLOYMENT: Whether district court properly rejected former medical resident's claims for hostile work environment, disparate treatment, retaliation, breach of contract, and libel.
Afraaz Irani v. Palmetto Health
(Currie)

17-1638 [Briefs](#) CIVIL: Propriety of construction of Va. Code section 46.2-1569.1 in action challenging dual dealerships stock purchase agreement; other issues.
Volvo Group North America, LLC v. Truck
(Dillon)

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17-1251 [Briefs](#) ERISA: Whether the district court applied correct standard of review after determining that plan administrator properly delegated discretionary authority; other issues.
Scott Griffin v. Hartford Life & Accident Ins.
(Moon)

17-1424 [Briefs](#) TORT: Whether the district court erred in concluding the Defendant did not have notice of dangerous condition; other issues.
Ellen Thomas v. Omni Hotels Mgmt
(Dillon)

17-4265 [Briefs](#) CRIMINAL: Whether testimony regarding money laundering constituted improper expert opinion; whether limitation on raising witness bias violated Confrontation Clause; other issues.
US v. Davon Bennett
(Boyle)

17-1890 [Briefs](#) CIVIL: Whether coworker's comments constituted defamation under Virginia law.
Sade Garnett v. Remedi SeniorCare of
(Hudson)

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

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17-0004 [Briefs](#) HABEAS: Whether death sentence invalid where state argued future dangerousness but jury was not instructed
Lesley Eugene Warren v. Marvin Polk that appellant was parole ineligible.
(Eagles)

17-4069 [Briefs](#) SENTENCING: Whether counts of conviction should have been grouped together under USSG section 3D1.2;
US v. Shane Sighting whether court properly applied USSG section 2J1.2(b)(1)(B) enhancement.
(Hendricks)

17-4205 [Briefs](#) CRIMINAL: Whether district court erred in finding that Defendants provided material support or resources to a
US v. Hinda Dhirane Foreign Terrorist Organization under 18 U.S.C. section 2339(B) (2012); other issues.
(Trenga)
Associations: 17-4226

17-4341 [Briefs](#) SENTENCING: Whether S.C. second degree criminal domestic violence is a crime of violence and Grade A
US v. Allen Holland violation under USSG section 7B1.1(a).
(Childs)

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18-1082 [Briefs](#) ATLANTIC COAST PIPELINE: Review of National Park Service decision authorizing pipeline crossing of Blue Ridge Parkway.
Sierra Club v. National Park Service

Associations: 18-1083

18-1042 [Briefs](#) MOUNTAIN VALLEY PIPELINE: Constitutional challenge to delegation and sub-delegation of power of eminent domain
Orus Berkley v. Mountain Valley Pipeline, LLC under 15 USC section 717(f).
(Dillon)

17-6054 [Briefs](#) POSTCONVICTION: Whether it violates due process to replace a Johnson-infirm ACCA predicate with a conviction
US v. Garnett Hodge not initially identified as an ACCA-qualifier.
(Eagles)

16-4854 [Briefs](#) CRIMINAL: Whether, following McDonnell v. United States, 136 S. Ct. 2355 (2016), Defendant is actually innocent
US v. Jara Flowers of Hobbs Act extortion under color of official right.
(Conrad)

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Butzner Courtroom 201
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17-1900 [Briefs](#)
Geraldine VanDevender v. Blue Ridge
(Boyle)
Associations: 17-1951
TORT: Whether district court erred in granting defendants' judgment as a matter of law with respect to jury verdict on punitive damages; other issues.

17-1859 [Briefs](#)
JTH Tax, Inc. v. Gregory Aime
(Morgan)
Associations: 17-1905
CONTRACT: Challenges to district court's finding of an oral modification of written option contract to extend deadline to obtain EFIN from IRS; evidentiary ruling; and attorneys fees ruling.

16-2406 [Briefs](#)
John McGuinness v. United States Forest
(Cogburn)
ADMINISTRATIVE LAW: Whether the National Environmental Policy Act required analysis of impact on property values; other issues.

17-4558 [Briefs](#)
US v. Jamal Moody
(Hazel)
CRIMINAL: Whether the government breached the terms of the plea agreement.

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17-1679 [Briefs](#)
Sarah No v. Thomas Gorman
(Lee)

BANKRUPTCY: Whether notice and hearing requirements in 11 U.S.C. section 1307 render dismissal without hearing under E.D. Va. Bankruptcy Rule 3070-1(C) improper.

17-1718 [Briefs](#)
Gustavo Aldunate Morales v. Jefferson

IMMIGRATION: Whether conviction for failure to appear is an aggravated felony using the circumstance specific approach; related issues.

17-4357 [Briefs](#)
US v. Charles Ritchie
(Jackson)

CRIMINAL: Propriety of jury instructions; propriety of evidentiary rulings; whether Defendants' right of confrontation was violated; other issues.

Associations: 17-4377

17-6280 [Briefs](#)
US v. Gregory Bowles
(Seymour)

POSTCONVICTION: Whether New York offenses of second-degree and third-degree robbery are violent felonies under the Armed Career Criminal Act.

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17-1626 [Briefs](#) CIVIL: Whether district court properly dismissed claims related to state court special receiver's and bankruptcy trustee's handling of medical device patents.
Barbara Sopkin v. Jill Mendelson
(Hilton)

17-4536 [Briefs](#) CRIMINAL: Whether district court erred in denying motion to suppress and finding officers had reasonable suspicion of criminal activity when they seized Defendant.
US v. Edward Kehoe
(Doumar)

15-4676 [Briefs](#) CRIMINAL: Propriety of district court's rulings in sealed proceeding.
Under Seal 1 v. Under Seal 2
(Lee)

16-4499 [Briefs](#) CRIMINAL: Whether denial of motion for new trial was an abuse of discretion; related issues.
US v. Jesus Alejandro Chavez
(Lee)

Associations: 16-4517, 16-4523, 16-4820, 16-4821, 16-4819

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