

Tuesday, December 10, 2024

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23-2297 [Briefs](#) CONSTITUTIONAL LAW: Multi-issue constitutional challenge to FINRA/SEC adjudication.  
Frank Black v. Securities and Exchange  
Commission

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24-1367 [Briefs](#) ADMINISTRATIVE LAW: Whether, in light of SEC v. Jarskey, district court erred in denying preliminary injunction in action  
challenging enforcement of Horse Protection Act.  
Joe Manis v. USDA  
(Osteen)

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24-1414 [Briefs](#) CIVIL: Whether ALJ provided sufficient analysis of supportability and consistency factors required by 20 C.F.R. section  
416.920c when evaluating opinions of mental health reviewing experts.  
Jasmine Boulden v. Martin O'Malley  
(Giles)

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24-1418 [Briefs](#) CIVIL: Whether district court erred in dismissing relator's FCA claim under the first to file rule.  
United States ex rel. Ganesa Rosales v.  
Amedisys North Carolina, L.L.C.  
(Dever)

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

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22-4647 [Briefs](#) CRIMINAL: Whether 10-minute traffic stop concluding with K-9 open-air sniff of motorcycle violated Fourth Amendment.  
US v. Joseph Dadisman  
(Kleeh)

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23-2290 [Briefs](#) IMMIGRATION: Whether, on a government appeal, the Board committed legal error and abused its discretion in  
Melvin Funez-Ortiz v. Merrick Garland overturning the immigration judge's grant of deferral of removal.

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23-1467 [Briefs](#) CIVIL: Whether district court erred by finding that, to succeed on state-created danger claim under section 1983,  
Estate of Trina L. Cunningham v. claimant must show intent to harm; other issues.  
Mayor and City Council of Baltimore  
(Griggsby)

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23-2071 [Briefs](#) CIVIL: Whether district court correctly dismissed Plaintiff's claim for return of unearned premiums, brought pursuant to  
Steve Kovachevich v. National Mortgage the Homeowners Protection Act; other issues.  
Insurance Corporation  
(Walker)

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Butzner Courtroom 201  
9:30 a.m.

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22-4384	<a href="#">Briefs</a>	SENTENCING: Whether North Carolina assault with a deadly weapon with intent to kill is a crime of violence under the Guidelines.
US v. Kewan Shade (Reidinger)		
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23-4765	<a href="#">Briefs</a>	SENTENCING: Whether 35 Pa. Stat. and Cons. Stat. section 780-113(a)(30) (West 2024) is a controlled substance offense under the Sentencing Guidelines.
US v. Rashun Suncar (Bailey)		
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24-1350	<a href="#">Briefs</a>	ARBITRATION: Challenge to arbitration award where arbitrator is alleged to have conflict of interest arising from unrelated \$18m claim against his law firm by a party to the arbitration.
Employers' Innovative Network, LLC v. Bridgeport Benefits, Inc. (Volk)		
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23-1722	<a href="#">Briefs</a>	IMMIGRATION: Whether Board erred in application of Convention Against Torture's specific intent requirement; other issues.
Marlon McDougall v. Merrick Garland		

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Blue Courtroom (Room 339)  
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23-4568 [Briefs](#) CRIMINAL: Whether evidence was sufficient for drug possession conviction; propriety of remand for determining  
US v. Taeyan Williams applicability of USSG section 4C1.1 for zero-point offender; other issues.  
(Chuang)  
Associations: 23-4595

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22-4745 [Briefs](#) CRIMINAL: Whether district court erred in admitting graphic videos and evidence of uncharged crimes unrelated to the  
US v. Ronald Contreras defendants; other issues.  
(Alston)  
Associations: 22-4746, 23-4005, 23-4006, 23-4020

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23-2165 [Briefs](#) CIVIL: Challenge to district court's decision declining to certify a manufacturer class.  
Mr. Dee's Inc. v. Inmar, Inc.  
(Osteen)

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

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21-4253	<a href="#">Briefs</a>	REHEARING.
US v. Rico Brown (Bell)		
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22-4707	<a href="#">Briefs</a>	CRIMINAL: Whether error under Erlinger v. United States, 144 S. Ct. 1840 (2024), is harmless; standard for assessing Erlinger error harmless in guilty plea context.
US v. Trevor Boggs (Dever)		
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24-4043	<a href="#">Briefs</a>	CRIMINAL: Whether court reversibly erred by admitting hearsay statements at revocation hearing based, in part, on determination that Government established good cause for witness's absence.
US v. Anthony Williams (Whitney)		
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23-2301	<a href="#">Briefs</a>	ARBITRATION: Whether district court erred in denying Appellant's motion to compel arbitration; other issues.
Darrell Austin, Jr. v. Experian Info. Solutions, Inc. (Payne)		

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

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23-4590 US v. Darrin Miller (Goodwin)	<a href="#">Briefs</a>	CRIMINAL: Whether a letter meets the definition of "obscene" under Miller v. California, 413 U.S. 15 (1973), for purposes of 18 U.S.C. section 1470.
24-4300 US v. Steven Fulton (Boyle)	<a href="#">Briefs</a>	CRIMINAL: Whether offense element that defendant had been convicted of a crime punishable by more than a year's imprisonment was a fact to be proven to the jury.
23-2026 Willarda Edwards v. AMA (Russell)	<a href="#">Briefs</a>	TORT: Whether the district court correctly applied the common interest privilege to the plaintiff's defamation claim; other issues.
24-1215 Patsy Talley v. Dale Folwell (Boyle)	<a href="#">Briefs</a>	CIVIL: Multi-issue challenge to state retirement plan's method of calculating and collecting recoupment after overpayment to retiree.

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

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22-4642 [Briefs](#) CRIMINAL: Whether probable cause existed for search of IP address linked to appellant when IP address was discovered  
US v. Raymond Dugan through warrantless search; other issues.  
(Goodwin)

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23-1901 [Briefs](#) EMPLOYMENT: Whether district court correctly dismissed Plaintiff's Title VII discrimination and retaliation claims; other  
Lisa Barnhill v. Merrick Garland issues.  
(Trenga)

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23-1047 [Briefs](#) IMMIGRATION: Whether Board abused its discretion in concluding that Petitioner did not make prima facie showing of  
Ansar Hussen v. Merrick Garland bona fide marriage to support reopening; other issues.

Associations: 23-2197, 24-1257

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23-4638 [Briefs](#) CRIMINAL: Whether copying and preservation of online account information under 18 U.S.C. section 2703(f) is seizure  
US v. Kyrie Thompson requiring warrant based on probable cause; other issues.  
(Xinis)

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Butzner Courtroom 201  
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24-1316 [Briefs](#) CIVIL: Whether district court disregarded the law of the case by overturning jury verdict after this court previously found sufficient evidence supported the jury's verdict  
Malcolm Wiener v. AXA Equitable Life Insurance Company  
(Conrad)

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24-1394 [Briefs](#) CIVIL: Whether ALJ erred in evaluating the opinions provided by the treating licensed professional counselor. 15 Mins.  
Dawn Drumgold v. Commissioner of Social Security  
(Alston)

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23-4137 [Briefs](#) SENTENCING: Whether district court clearly erred in applying vulnerable victim enhancement based on victims' ages; other issues. 15 Mins.  
US v. Rojay Lawson  
(Hendricks)

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24-1027 [Briefs](#) CIVIL: Challenge to district court's grant of summary judgment on RICO claims, finding no support for either open-ended or closed-ended continuity in the predicate acts.  
FX Aviation Capital LLC v. Hector Guerrero  
(Herlong)

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Blue Courtroom (Room 339)  
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22-4338	<a href="#">Briefs</a>	CRIMINAL: Whether appellate waiver in plea agreement was knowing and voluntary.
US v. Quamaine Smith (Boyle)		
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23-4471	<a href="#">Briefs</a>	CRIMINAL: Whether Richardson received ineffective assistance of counsel because counsel failed to raise potentially meritorious objection to Sentencing Guidelines enhancement.
US v. Tavis Richardson (Dever)		
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24-1388	<a href="#">Briefs</a>	CONSTITUTIONAL LAW: Challenge to limitations on fishing for Atlantic Striped Bass along the coastal Atlantic Ocean, and its inland waterways including the Chesapeake Bay.
Delmarva Fisheries Association, Inc. v. Atlantic States Marine Fisheries Commission (Bennett)		
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23-2253	<a href="#">Briefs</a>	EMPLOYMENT: Whether district court erred in granting summary judgment to Defendant on Plaintiff's claim alleging failure to provide reasonable disability accommodations under West Virginia law.
Leanna Coffman v. Nexstar Media Inc. (Volk)		

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Gold Courtroom (Room 348)  
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24-1238 [Briefs](#) CONSTITUTIONAL LAW: Whether South Carolina sheriff's office was entitled to Eleventh Amendment immunity where  
Randall Williams v. Charleston County there is no State Treasury Risk.  
Sheriff's Office  
(Norton)

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24-1261 [Briefs](#) CIVIL: Whether district court erred granting motion to dismiss claims alleging violations of various consumer protection  
John Koontz v. SN Servicing Corporation acts.  
(Bailey)

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23-2235 [Briefs](#) CIVIL: Whether the Civil Service Reform Act impliedly divests district court of jurisdiction over claims raised by National  
Nat'l Assn of Immigration Judges v. David Neal Association of Immigration Judges.  
(Brinkema)

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23-1716 [Briefs](#) IMMIGRATION: Whether unequivocal evidence of bias on the part of the immigration judge establishes due process  
Jose Mendez-Guevara v. Merrick Garland violation; propriety of adverse credibility ruling.

Associations: 23-2291

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22-7199 [Briefs](#) CIVIL RIGHTS: Whether officer's use of mandibular angle pressure point technique amounted to excessive force.  
Albert Anderson v. B. Ferguson  
(Biggs)

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24-1229 [Briefs](#) CIVIL: Whether policy insuring against damage caused by heat from molten material applied to losses arising from chain  
of events involving multiple risks, including fire, equipment shutdown, and water damage.  
JW Aluminum Company v. ACE American  
Insurance Company  
(Hendricks)

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24-4192 [Briefs](#) CRIMINAL: Challenge to constitutionality of 18 U.S.C. section 922(g)(4), which prohibits firearm possession by person  
who had previously been involuntarily committed to mental institution.  
US v. James Gould  
(Johnston)

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24-6270 [Briefs](#) CIVIL: Whether district court erred in dismissing inmate complaint for failure to exhaust administrative remedies.  
Patrick McGraw v. Theresa Gore  
(Myers)

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24-1102 [Briefs](#) CIVIL: Whether district court properly granted summary judgment to Defendant on Plaintiff's slip-and-fall claim.  
Lois Brown v. Wal-Mart Stores East, LP  
(Ballou)

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23-2246 [Briefs](#) CIVIL: Whether district court properly resolved dispute over ownership of Norman Rockwell illustrations.  
William Elam, III v. Stephen Early  
(Nachmanoff)

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22-7105	<a href="#">Briefs</a>	POSTCONVICTION: Whether Appellant demonstrated a reasonable probability that, but for plea counsel's erroneous advice regarding sentencing exposure, Appellant would have accepted the Government's plea offer.
US v. Edwin Brown (Dever)		
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24-1328	<a href="#">Briefs</a>	ARBITRATION: Whether district court erred in ruling parties did not agree to arbitrate disputed claims; other issues.
Berkeley County School District v. HUB International Limited (Norton)		
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24-1186	<a href="#">Briefs</a>	CIVIL: Challenge to district court's permanent injunction enforcing settlement agreement terms in trademark dispute.
Wudi Industrial (Shanghai) Co., Ltd. v. Wai Wong (Hilton)		

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23-1663 [Briefs](#)  
Adewumi Abioye v. Merrick Garland  
IMMIGRATION: Whether application of Sixth Circuit law was erroneous and prejudicial; whether remand is necessary under *Wambura v. Barr*, 980 F.3d 365 (4th Cir. 2020).

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24-4122 [Briefs](#)  
US v. Javier Chavez Dominguez  
(Osteen)  
CRIMINAL: Whether purportedly erroneous enhanced statutory maximum was prejudicial where sentence imposed was below the lower statutory maximum; other issues.

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24-4206 [Briefs](#)  
US v. Lawrence Florentine  
(Coggins)  
CRIMINAL: Whether 18 USC 844(h)(1) enhancement for use of fire to commit a felony applies where the predicate felony is murder and the body was burned post-mortem.

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24-1942 [Briefs](#)  
South Carolina Coastal Conservation League  
v. United States Army Corps of Engineers  
(Gergel)  
CIVIL: Whether district court erred denying temporary restraining order to prevent violations of Endangered Species Act and National Environmental Policy Act.

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23-2047 [Briefs](#)  
Tiffany Johnson v. Continental Finance  
Company, LLC  
(Xinis)

ARBITRATION: Whether the district court erred in finding, under Maryland law, that parties' arbitration agreements were illusory.

Associations: 23-2049

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23-1148 [Briefs](#)  
Studco Building Systems US, LLC v. 1st  
Advantage Federal Credit Union  
(Jackson)

CIVIL. Whether district court applied proper standard of liability under Virginia's commercial code provision governing misdescription of beneficiary, Va. Code 8.4A-207.

Associations: 23-1766

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24-1449 [Briefs](#)  
Maryland Election Integrity, LLC v. Maryland  
State Board of Elections  
(Gallagher)

VOTING RIGHTS: Whether district court erred in dismissing for lack of standing claims alleging violations of the National Voter Registration Act.

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24-6477	<a href="#">Briefs</a>	CONSTITUTIONAL LAW: Whether district court erred granting summary judgment for plaintiff on claims alleging deliberate indifference under the Eighth Amendment.
Kanautica Zayre-Brown v. North Carolina Department of Adult Corrections (Cogburn)		
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24-4024	<a href="#">Briefs</a>	CRIMINAL: Whether the district court erred in suppressing evidence based on finding that NCIS was authorized to seize cell phone but not search its contents.
US v. Joshua Ray (Gibney)		
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23-4314	<a href="#">Briefs</a>	CRIMINAL: Whether revocation sentence is plainly procedurally unreasonable when district court did not calculate or discuss defendant's advisory policy statement range; other issues.
US v. Eric Walton (Bailey)		

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23-2023 [Briefs](#) EMPLOYMENT: Whether restrictive covenants were impermissibly overbroad and/or vague. Other issues.  
Allegis Group, Inc. v. Christopher Bero  
(Hollander)

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24-1372 [Briefs](#) EMPLOYMENT: Propriety of rulings concluding that defendant did not breach employment agreement or duty of loyalty  
Aerotek, Inc. v. Kenneth Nosky  
(Xinis) by emailing company records to personal email account.

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24-4032 [Briefs](#) CRIMINAL: In 8 U.S.C. section 1326(d) challenge to illegal reentry charge, which party bears burden regarding  
US v. Victor Castro-Aleman  
(Young) voluntariness of waiver of appeal of removal order?

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24-1342 [Briefs](#) CIVIL: Whether Plaintiffs adequately alleged claims for libel and a violation of the North Carolina Unfair and Deceptive Trade Practices Act.  
RE Carroll Management Company v. Dun & Bradstreet, Inc.  
(Eagles)

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24-4039 [Briefs](#) CRIMINAL: Multi-issue appeal challenging governments proof of special territorial jurisdiction.  
US v. Jesse Perez  
(Young)

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23-1909 [Briefs](#) CIVIL: Whether contract claim related to rail company's agreement to allow sandbagging over railway to prevent town's flooding is preempted under ICCTA.  
Jimmy Edwards v. CSX Transportation, Inc.  
(Boyle)

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Blue Courtroom (Room 339)  
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24-1389 [Briefs](#)  
John Wright v. Granville County  
(Myers) CIVIL: Whether district court erred in granting summary judgment in favor of defendants on sec. 1983 and Monell claims related to inmate's death from fentanyl poisoning while in custody.

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24-1360 [Briefs](#)  
Gardenia Dorado-Ocasio v. Christine Wormuth  
(Giles) CIVIL: Whether ABCMR's decision provided sufficient rationale for denial of servicemember's request to correct error in her military record.

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24-4219 [Briefs](#)  
US v. Malik Wilder  
(Harwell) CRIMINAL: Whether district court properly denied motion to suppress on ground that firearm inevitably would have been discovered by inventory search.

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24-1494 [Briefs](#)  
Diana Mey v. William Pintas  
(Bailey)

CIVIL: Challenge to district court's order enjoining proceedings in Puerto Rico Court of First Instance.

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23-4472 [Briefs](#)  
US v. Carl Murdaugh  
(Gergel)

CRIMINAL: Whether district court erred in refusing to dismiss indictment based on violation of Defendant's constitutional right to a speedy trial.

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24-1374 [Briefs](#)  
Christine Sugar v. Michael Burnett  
(Flanagan)

BANKRUPTCY: Validity of local bankruptcy rule; whether sale of residence was in violation of rule and whether sanctions were warranted.

Associations: 24-1436

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Tweed Courtroom (Room 414-D)  
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