

Monday, January 27, 2025

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25-1018 [Briefs](#)  
Jefferson Griffin v. NC State Board of Elections  
(Myers)

JURISDICTION: Whether district court erred in abstaining pursuant to *Burford v. Sun Oil Co.*, 319 U.S. 315 (1943), and remanding case back to state court.

PANEL I  
Judge Niemeyer, Judge Quattlebaum, Judge Heytens  
Red Courtroom (Room 412)  
3:30 p.m.

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24-1432 [Briefs](#) CIVIL: Whether district court erred dismissing claims of failure to accommodate, disability discrimination, and unlawful medical inquiry under the ADA.  
Sally Tarquinio v. Johns Hopkins University  
(Bennett)

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24-1447 [Briefs](#) CIVIL: Challenge to agency's administrative decisions approving highway construction plans in Maryland.  
Maryland Chapter of the Sierra Club v.  
Federal Highway Administration  
Chasanow)

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22-4230 [Briefs](#) SENTENCING: Whether the Government breached the plea agreement by arguing for Sentencing Guidelines enhancements predicated on facts outside of the parties' relevant conduct stipulation.  
US v. Dehaven Craig  
(Kleeh)

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24-1450 [Briefs](#) CONTRACT: Challenge to district court's grant of summary judgment in contract dispute over allegedly arbitrary, hidden, and inflated fees charged by patent renewal company.  
Brainchild Surgical Devices, LLC v. CPA  
Global Limited  
(Alston)

PANEL I  
Chief Judge Diaz, Judge Quattlebaum, Judge Rushing  
Red Courtroom (Room 412)  
9:30 a.m.

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24-1301 [Briefs](#)  
Jacob Doe v. The University of  
North Carolina System  
(Reidinger)

CIVIL: Challenge to district court's denial of qualified immunity and sovereign immunity; related issues.

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24-1108 [Briefs](#)  
Roland Chalifoux, Jr. v.  
Wetzel County Hospital, Inc.  
(Bailey)

CIVIL: Propriety of court's ruling that Plaintiff did not withdraw attorney's authorization to enter settlement and enforcement of contested settlement agreement; other issues.

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23-4544 [Briefs](#)  
US v. Winston Oliver, II  
(Hudson)

SENTENCING: Whether district court erred in allowing co-defendant to assert Fifth Amendment privilege at Appellant's resentencing after their convictions were affirmed; other issues.

Panel II  
Judge Wilkinson, Judge Agee, Senior Judge Floyd  
Butzner En Banc Courtroom 201  
9:30 a.m.

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23-4473 [Briefs](#)  
US v. Christopher Sueiro  
(Alston)

SENTENCING: Whether district court erred in imposing special conditions of supervised release, including lifetime prohibition on sex-related adult telephone services, websites, or electronic bulletin boards.

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24-1105 [Briefs](#)  
Juan Alfaro v. James McHenry, III

IMMIGRATION: Whether Board erred in reversing grant of deferral of removal under the Convention Against Torture; standard of review.

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24-1253 [Briefs](#)  
Jonathan Colorado Navarro v.  
James McHenry, III

IMMIGRATION: Whether the Board legally erred and abused its discretion in finding Petitioner is unlikely to be tortured by the Salvadoran government; related issues.

PANEL III  
Judge King, Judge Richardson, Senior Judge Keenan  
Blue Courtroom (Room 339)  
9:30 a.m.

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24-1120 [Briefs](#) CIVIL: Whether court properly rejected challenge to sufficiency of claims under North Carolina's Unfair and Deceptive  
CPI Security Systems, Inc. v. Vivint Smart Trade Practices Act; propriety of damages awards; other issues.  
Home, Inc.  
(Cogburn)

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24-1216 [Briefs](#) CONSTITUTIONAL LAW: Whether licensing scheme for retail cannabis dispensaries favoring attendees of particular  
Justyna Jensen v. Maryland Cannabis Admin. Maryland colleges violates dormant Commerce Clause.  
(Hurson)

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24-6325 [Briefs](#) POSTCONVICTION: Whether district court erred in granting federal habeas relief based on Brady violations.  
Robert Moore v. State of Maryland  
(Bredar)

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23-2306 [Briefs](#) IMMIGRATION: Whether Petitioner showed nexus to a protected ground; denial of motion to remand for cancellation of  
Wilmer Martinez v. James McHenry, III removal.

PANEL IV  
Judge Niemeyer, Judge Benjamin, Judge Berner  
Gold Courtroom (Room 348)  
9:30 a.m.

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23-1763 [Briefs](#)  
Phyllis Weaver v. Walgreen Company  
(Boyle) EMPLOYMENT: Whether district court erroneously granted Fed. R. Civ. P. 12(b)(1) motion based on Appellant's failure to timely file federal employment discrimination action; other issues.

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23-4731 [Briefs](#)  
US v. Luis Avila  
(Conrad) SENTENCING: Whether, under USSG section 2G2.2(c)(1), the district court properly applied cross reference for production of child pornography.

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22-6177 [Briefs](#)  
Garfield Holley v. J. Combs  
(Dillon) CIVIL RIGHTS: Whether district court properly determined prisoner failed to demonstrate imminent danger of serious physical injury under 28 U.S.C. section 1915(g).

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24-1773 [Briefs](#)  
Real Time Medical Systems, Inc. v.  
PointClickCare Technologies, Inc.  
(Xinis) CIVIL: Challenge to district court's grant of preliminary injunction prohibiting use by medical industry software-as-service provider of certain security features against bots.

PANEL V  
Judge Gregory, Judge Wynn, Judge Heytens  
Tweed Courtroom (Room 414-D)  
9:30 a.m.

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23-1986 [Briefs](#) CIVIL RIGHTS: Propriety of granting summary judgment on conditions-of-confinement claim, which related to conditions while terminally ill inmate was hospitalized; qualified immunity; other issues.  
Derrick Coleman v. North Carolina  
Department of Public Safety  
(Cogburn)

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23-4486 [Briefs](#) CRIMINAL: Whether jury instruction incorrectly defined specific intent; whether court erred by enhancing sentence for use of sophisticated means.  
US v. Cory Sanders  
(Bredar)

PANEL VI  
Judge Thacker, Judge Harris, Judge Hanes\*  
Tan Courtroom (Room 223)  
9:30 a.m.

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\* Hon. Elizabeth W. Hanes, United States District Judge, Eastern District of Virginia

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23-4636 [Briefs](#)  
US v. Gerald Wheeler  
(Conrad)

CRIMINAL: Whether district court reversibly erred by admitting certain hearsay statements under Fed. R. Crim. P. 32.1(b)(2)(C) and relying on them when revoking supervised release.

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24-1377 [Briefs](#)  
Bradford Kendrick v. Carter Bank & Trust, Inc.  
(Dillon)

CIVIL: Challenge to grant of summary judgment on claims of harassment and retaliation in violation of the Age Discrimination in Employment Act of 1967.

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23-4009 [Briefs](#)  
US v. Robert Benton, Jr.  
(Currie)  
Associations: 23-6019

CRIMINAL: Whether an information seeking enhanced penalties filed after jury selection but before the jury is sworn is filed "before trial" under section 851(a)(1).

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24-1007 [Briefs](#)  
AdvanFort Company v. Zamil Offshore  
Services Co.  
(Brinkema)

CIVIL PROCEDURE: Whether court erred in dismissing based on forum non conveniens when party was in default and did not move to dismiss; other issues.

PANEL I  
Judge King, Judge Thacker, Senior Judge Floyd  
Red Courtroom (Room 412)  
9:30 a.m.

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23-6254 [Briefs](#)  
US v. Larry Burleigh  
(Hudson) POSTCONVICTION: Whether district court adequately considered stacked sentences and the need to avoid unwarranted sentencing disparities in denying motion for compassionate release; other issues.

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23-6896 [Briefs](#)  
US v. Shaheem Johnson  
(Trenga) CRIMINAL: Whether district court erred in finding rehabilitation, pre-Booker sentence, and other factors warranted substantial reduction in sentence under 18 U.S.C. section 3582(c)(1)(A).

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24-6257 [Briefs](#)  
US v. Rodney Crawley  
(Gibney) POSTCONVICTION: Whether district court abused its discretion by denying compassionate release motion premised on argument that Virginia robbery no longer qualifies as career offender predicate.

PANEL II  
Judge Niemeyer, Judge Gregory, Judge Quattlebaum  
Butzner Courtroom 201  
9:30 a.m.

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21-7609 [Briefs](#)  
Justin Longworth v. A. Mansukhani  
(Flanagan)

CIVIL: Whether FTCA's judgment bar applies retroactively; other issues.

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24-4048 [Briefs](#)  
US v. Ron Elfenbein  
(Bredar)

CRIMINAL: Whether district court erred in granting FRCP 29 post-trial motion for acquittal in healthcare fraud case.

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23-1288 [Briefs](#)  
US v. Arthur Stover  
(Conrad)

TAX: Whether presumption of correctness afforded IRS determinations and presumption of regularity afforded government agencies' actions were properly applied in granting motion for summary judgment.

PANEL III  
Judge Agee, Judge Richardson, Judge Nachmanoff\*  
Blue Courtroom (Room 339)  
9:30 a.m.

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\*Hon. Michael S. Nachmanoff, United States District Judge, Eastern District of Virginia

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23-2309	<a href="#">Briefs</a>	CIVIL: Whether district court erred in using 10-year-old matrix to calculate attorney's fees award under federal fee shifting statute.
Flor Arriaza De Paredes v. Zen Nails Studio LLC (Chuang)		
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24-6440	<a href="#">Briefs</a>	POST-CONVICTION: Whether district court erred in allowing retrial to be conducted by prosecution team with access to appellant's entire defense file from her first trial.
Raminder Kaur v. Warden (Russell)		
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24-4078	<a href="#">Briefs</a>	SENTENCING: Whether district court failed to adequately explain downward variant sentence.
US v. Fredrick McCray (Hendricks)		

PANEL IV  
Judge Heytens, Judge Berner, Judge Hanes\*  
Gold Courtroom (Room 348)  
9:30 a.m.

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\*Hon. Elizabeth W. Hanes, United States District Judge, Eastern District of Virginia

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24-1099 Mohammad Qaiymah v. James McHenry, III	<a href="#">Briefs</a>	IMMIGRATION: Whether asylum claim based on imputed homosexuality lacked nexus to protected ground; propriety of denial of humanitarian asylum and CAT protection.
24-1399 AAR v. Jehmal Hudson (Novak)	<a href="#">Briefs</a>	CIVIL: Multi-issue appeal of district court's order dismissing plaintiff's claims challenging the constitutionality of Virginia statute giving Internet broadband service providers access rights to railroad property.
22-6055 US v. James Ervin, Jr. (Cogburn)	<a href="#">Briefs</a>	POSTCONVICTION: Whether Government's material but inadvertent factual misrepresentation provides basis for setting aside guilty plea.

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PANEL V  
Judge Wilkinson, Judge Harris, Judge Rushing  
Tweed Courtroom (Room 414-D)  
9:30 a.m.

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24-1465 [Briefs](#)  
Susan Scharpf v. General Dynamics Corporation (Trenga)  
CIVIL: Whether district court erred in dismissing as untimely claims alleging antitrust violations related to agreement between competitors not to poach employees.

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24-1491 [Briefs](#)  
Lee Sommerville v. Union Carbide Corporation (Goodwin)  
JURISDICTION: Whether appellant lacked Article III standing to bring medical monitoring claim based on exposure to toxins emitted by appellees.

PANEL VI  
Chief Judge Diaz, Judge Wynn, Judge Benjamin Tan  
Courtroom (Room 223)  
9:30 a.m.

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22-4489 [Briefs](#)  
US v. Okello Chatrie  
(Lauck)

REHEARING EN BANC

Chief Judge Diaz, Judge Wilkinson, Judge Niemeyer, Judge King,  
Judge Gregory, Judge Agee, Judge Wynn, Judge Thacker,  
Judge Harris, Judge Richardson, Judge Quattlebaum,  
Judge Rushing, Judge Heytens, Judge Benjamin, and Judge Berner  
Butzner En Banc Courtroom 201  
9:00 a.m.

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23-1876 [Briefs](#)  
U.S. Med Supplies, LLC v. Geri-Care  
Pharmaceuticals Corporation  
(Flanagan)

CIVIL: Whether district court reversibly erred in determining that North Carolina's discovery rule did not render timely claim for breach of contract; other issues.

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24-1877 [Briefs](#)  
Lisa Smith v. Matthew Jennings  
(Urbanski)

CIVIL: Whether district court erred in denying qualified immunity to law enforcement officer in wrongful death case.

PANEL I  
Judge King, Judge Rushing, Judge Berner  
Red Courtroom (Room 412)  
After the en banc session

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22-4262 [Briefs](#)  
US v. Jose Joya Parada  
(Bredar)

CRIMINAL: Whether district court erred in denying defendants' challenges to the government's peremptory strikes during jury selection pursuant to Batson v. Kentucky.

Associations: 22-4281, 22-4290, 22-4324

PANEL II  
Chief Judge Diaz, Judge Agee, Judge Wynn  
Butzner Courtroom 201  
After the en banc session

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24-1294 [Briefs](#)  
NCO Financial Systems, Inc. v. Montgomery  
Park, LLC  
(Russell)

CIVIL: Whether district court erred in awarding attorney's fees, expert witness fees and costs in suit between landlord and former tenant.

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24-6293 [Briefs](#)  
US v. Melissa Barrett  
(Jones)

SENTENCING: Whether district court may apply "safety valve" provision of Sentencing Guidelines to reduce defendant's offense level after reducing criminal history score under Amendment 821.

PANEL III  
Judge Niemeyer, Judge Gregory, Judge Harris  
Blue Courtroom (Room 339)  
After the en banc session

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23-2085\* [Briefs](#) CONSTITUTIONAL LAW: Challenge to federal law prohibiting firearms licensees from selling firearms to 18-to-20 year olds; Joshua McCoy v. ATF issues related to class certification.  
(Payne)

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23-2275\* [Briefs](#) CONSTITUTIONAL LAW: Challenge to federal law prohibiting firearms licensees from selling firearms to 18-to-20 year olds.  
Steven Brown v. ATF  
(Kleeh)

\*23-2085 consolidated with 23-2275 for oral argument purposes.

PANEL IV  
Judge Wilkinson, Judge Quattlebaum, Judge Heytens  
Gold Courtroom (Room 348)  
After the en banc session

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24-1439 [Briefs](#)  
Donald Black v. Mantei & Associates, Ltd.  
(Lewis)

CIVIL: Whether district court erred awarding attorneys' fees and costs for removal when appellants removed the underlying case after district court had already remanded it.

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24-6398 [Briefs](#)  
Kevin Snodgrass, Jr. v. Christopher Gilbert  
(Sargent)

CIVIL RIGHTS: Challenge to grant of summary judgment in favor of defendants on First Amendment retaliation claims.

PANEL V  
Judge Thacker, Judge Richardson, Judge Benjamin  
Tweed Courtroom (Room 414-D)  
After the en banc session

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23-4431 [Briefs](#)  
US v. Trevor Seward  
(Coggins)

CRIMINAL: Whether admission of laboratory director's testimony about DNA test results violated Confrontation Clause; whether firearms toolmark evidence was properly admitted; other issues.

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24-1508 [Briefs](#)  
Katrina Robertson v. US  
(Nachmanoff)

CIVIL: Whether district court erred in dismissing negligence claim based on alleged acts or omissions of the Defense Intelligence agency resulting in appellant's injury.

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24-1511 [Briefs](#)  
Brooke Somers v. Anthony Devine  
(Hurson)

CIVIL: Whether officer was entitled to qualified immunity for use of force during and after plaintiff's arrest; other related issues.

PANEL I  
Judge Wilkinson, Judge Heytens, Judge Benjamin  
Red Courtroom (Room 412)  
8:30 a.m.

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24-1709 [Briefs](#)  
Anthony Defeo v. IonQ, Inc.  
(Boardman)

SECURITIES FRAUD: Challenge to district court's dismissal of complaint alleging securities fraud.

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24-4304 [Briefs](#)  
US v. Marilyn Mosby  
(Griggsby)

CRIMINAL: Multi-issue challenge to mortgage fraud and perjury convictions.

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24-1332 [Briefs](#)  
The Travelers Indemnity Company v.  
American Alternative Insurance Corporation  
(Biggs)

INSURANCE: Whether insurance policy covering injuries arising out of "incidental operations of" county emergency services includes actions by county's 911 operators.

Associations: 24-1370

PANEL II  
Judge Niemeyer, Judge Agee, Judge Thacker  
Butzner Courtroom 201  
8:30 a.m.

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23-4532 [Briefs](#)  
US v. Thomas Faulls, Sr.  
(Jones) SENTENCING: Whether district court erred in applying enhancement under USSG section 2A4.1(b)(3) for using a dangerous weapon in the offense; other issues.

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23-4583 [Briefs](#)  
US v. Amir Golestan  
(Gergel) CRIMINAL: Whether district court abused its discretion by denying motion to withdraw guilty pleas following Ciminelli v. United States, 598 U.S. 306 (2023); other issues.  
Associations: 23-4592

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23-2237 [Briefs](#)  
Samir Baptista v. James McHenry, III IMMIGRATION: Whether assault with intent to rob, under Mass. Gen. Laws ch. 265, section 20, qualifies categorically as an aggravated felony attempted theft offense.

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24-1170 [Briefs](#)  
Steven Albert v. Brooke Lierman  
(Rubin) CLASS ACTION: Whether district court properly denied Defendant's motion to dismiss Plaintiffs' Fifth Amendment takings claim challenging the Maryland Uniform Disposition of Abandoned Property Act.

PANEL III  
Chief Judge Diaz, Judge Harris, Judge Berner  
Blue Courtroom (Room 339)  
8:30 a.m.

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23-2316 [Briefs](#)  
William Peterson, III v. Harrah's NC Casino  
Company, LLC  
(Cogburn)

EMPLOYMENT: Whether district court correctly found that Indian tribe was a necessary and indispensable party to Plaintiff's FMLA and USERRA claims; other issues.

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23-2224 [Briefs](#)  
Evy Orellana v. Deputy U. S. Marshal  
Ryan Godec  
(Chuang)

CIVIL RIGHTS: Whether qualified immunity applied in Bivens action because Marshals' use of canine in execution of arrest warrant was a "new context."

PANEL IV  
Judge Gregory, Judge Richardson, Judge Rushing  
Gold Courtroom (Room 348)  
8:30 a.m.

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22-4488	<a href="#">Briefs</a>	CRIMINAL: Whether, in 18 U.S.C. section 876(c) prosecution, uncharged threatening letter was properly admitted.
US v. Brock Beeman (Lauck)		
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24-1383	<a href="#">Briefs</a>	CONSTITUTIONAL LAW: Whether municipal noise ordinance banning amplified sound near medical clinics violates First Amendment; other related issues.
Zachary Hebb v. City of Asheville, North Carolina (Reidinger)		
<hr/>		
24-1523	<a href="#">Briefs</a>	CIVIL: Whether district court erred granting summary judgment for employer on retaliation claim where employee was terminated after complaining of racial discrimination.
Eddie Stewart v. GES Recycling South Carolina LLC (Austin)		

PANEL V  
Judge King, Judge Wynn, Judge Quattlebaum  
Tweed Courtroom (Room 414-D)  
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