

Wednesday, May 3, 2023

20-0001 [Briefs](#)
US v. Brandon Council
(Harwell)

Associations: 21-0008

CAPITAL CASE: Multi-issue challenge to capital conviction and sentence including issues related to competency, jury selection and instructions, confinement conditions, and execution method.

21-1608 [Briefs](#)
Clayton Hulbert v. Brian Pope
(Gallagher)

CIVIL RIGHTS: Whether district court erroneously denied qualified immunity for arrests outside state legislature; whether First Amendment right to record the police was clearly established.

22-1066 [Briefs](#)
US v. Ilana Bangiyeva
(O'Grady)

Associations: 22-1099

CRIMINAL: Third-party petitioner's appeal of forfeiture order and Government's cross-appeal from order prohibiting sale of forfeited property in which third-party petitioner retains a minority interest.

PANEL I
Judge Wilkinson, Judge Agee, Judge Heytens
Red Courtroom (Room 412)
9:00 a.m.

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22-4209 [Briefs](#) CRIMINAL: Whether pretrial delay violated appellant's statutory speedy trial rights; propriety of denial of motion to suppress; sufficiency of evidence.
US v. Trezith Smart
(Novak)

20-7540 [Briefs](#) CIVIL RIGHTS: Whether Bivens remedy exists for federal prisoner's First Amendment claims based on retaliation for filing grievances; other issues.
Joseph Mays v. T. Smith
(Flanagan)

22-1320 [Briefs](#) EMPLOYMENT: Whether Virginia courts clearly lack jurisdiction over Rehabilitation Act claims, thus precluding application of state nonsuit tolling provisions.
John Massey, Jr. v. Virginia Polytechnic
(Dillon)

PANEL II
Judge Wynn, Judge Richardson, Senior Judge Traxler
Butzner Courtroom 201
9:30 a.m.

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22-1498 [Briefs](#)
Hannah P. v. Avril Haines
(Brinkema)

CIVIL: Challenge to district court's denial of damages for FMLA interference claim.

22-1622 [Briefs](#)
Dewberry Engineers Inc. v. Dewberry Group,
(O'Grady)

TRADEMARK: Challenge to grant of summary judgment in trademark and breach of contract dispute.

Associations: 22-1845

21-7752 [Briefs](#)
US v. Kelvin Brown
(Doumar)

POSTCONVICTION: Whether, on remand, the court abused its discretion in denying compassionate release because of Brown's vaccination status and in conducting alternative section 3553(a) analysis.

22-2320 [Briefs](#)
Minna-Marie Brandt v. Damian Caracciolo
(Cayer)

CIVIL: Whether, under the Hague Convention, Petitioner did not meet her burden of showing that retention of children was not by agreement; related issues.

PANEL III
Chief Judge Gregory, Judge Thacker, Judge Quattlebaum
Blue Courtroom (Room 339)
9:30 a.m.

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21-6829 [Briefs](#) SENTENCING: Whether district court erred in denying First Step Act motion; application of United States v. Swain, 49
US v. Danny Smith F.4th 398, to the facts of this case in consideration of the Supreme Court's directions in Concepcion v. United States, 142
(Hudson) S.Ct. 2389.

22-2078 [Briefs](#) CIVIL: Whether district court erred in denying motion to vacate the monetary relief portion of the judgment under Rule
FTC v. Kristy Ross 60(b)(4) and Rule 60(b)(6).
(Bennett)

22-1221 [Briefs](#) IMMIGRATION: Propriety of agency's legal analysis relative to Petitioner's claim for withholding of removal and
Jose Martinez v. Merrick Garland whether substantial evidence supports adverse factual conclusion; other issues.

PANEL IV
Judge Diaz, Judge Rushing, Senior Judge Floyd
Gold Courtroom (Room 348)
9:30 a.m.

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22-1748 [Briefs](#) ARBITRATION: Whether district court correctly held that instant dispute was governed by Washington Uniform
Ahaji Amos v. Amazon Logistics, INC. Arbitration Act; other issues.
(Eagles)

22-1744 [Briefs](#) CIVIL: Challenge to class certification arising from data-security breach incident.
Peter Maldini v. Accenture LLP
(Grimm)
Associations: 22-1745

22-1480 [Briefs](#) ARBITRATION: Whether the district court erred in ordering arbitration between Plaintiff and a non-signatory to the
Lastephen Rogers v. Tug Hill Operating, LLC arbitration agreement; other issues.
(Bailey)

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

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20-4338	Briefs	CRIMINAL: Whether numerous omissions in plea colloquy rendered guilty plea invalid; whether district court erred in imposing conditions of supervised release; other issues.
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21-7171	Briefs	POSTCONVICTION: Whether Appellant's 18 U.S.C. section 924(j) conviction remains valid under US v. Davis, and US v. Taylor.
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17-4487	Briefs	CRIMINAL: Whether Defendant satisfies plain error standard in terms of his unpreserved claim under Rehaif v. United States, 139 S. Ct. 2191 (2019); other issues.

PANEL I
Chief Judge Gregory, Judge King, Senior Judge Motz
Red Courtroom (Room 412)
9:30 a.m.

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21-2368

[Briefs](#)

Anthony Mathis v. Terra Renewal Services, Inc.
(Conrad)

CIVIL: Multiple issues arising from jury trial on claims related to tanker explosion causing serious and permanent injuries.

PANEL II

Judge Wilkinson, Judge Harris, Judge Richardson
Butzner Courtroom 201

****8:30 a.m.****

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20-1509 Todd Kashdan v. George Mason University (O'Grady)	Briefs	CIVIL: Whether tenured public university professor stated cognizable Title IX gender discrimination, due process, and First Amendment claims arising from sexual harassment investigation.
21-4367 US v. Montes Miller (Schroeder)	Briefs	CRIMINAL: Whether sufficient factual basis supports defendant's knowledge of prohibited status in 18 U.S.C. section 922(g)(1) prosecution; other issues.
22-1750 Gary Nestler v. Bishop of Charleston (Gergel)	Briefs	CLASS ACTION: Whether district court erred in denying class certification; whether South Carolina law requires actual viewing for tort of intrusion into private affairs.
21-2051 Justin Adkins v. CSX Transportation, Inc. (Chambers)	Briefs	EMPLOYMENT: Whether district court properly awarded summary judgment to defendants on FMLA interference claims based on "honest belief" rule; other issues.

PANEL III
Judge Niemeyer, Judge Agee, Judge Rushing
Blue Courtroom (Room 339)
9:30 a.m.

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22-1519 Kevin Geiger v. Zurich American Insurance (Dawson)	Briefs	ERISA: Whether the plan administrator abused its discretion in denying benefits without considering stress and mental acuity required for plaintiff's profession.
22-1248 Mark Guthrie v. PHH Mortgage Corporation (Boyle)	Briefs	CIVIL: Whether bankruptcy code preempts claims under state consumer protection statute related to attempts to collect a debt discharged in bankruptcy; other issues.
22-1491 US v. Walgreen Co. (Jones)	Briefs	CIVIL: Whether district court reversibly erred in granting Appellee's motion to dismiss claims brought pursuant to the False Claims Act; other issues.
Associations: 22-1492		
20-6957 US v. Garfield Redd (Bennett)	Briefs	CRIMINAL: Whether Maryland first-degree assault is a violent felony under the force clause of the Armed Career Criminal Act.

PANEL IV
Judge Wynn, Judge Diaz, Judge Quattlebaum
Gold Courtroom (Room 348)
9:30 a.m.

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22-1499 [Briefs](#) IMMIGRATION: Whether substantial evidence supports the finding that Petitioner did not have a well-founded fear of
Marvin Amaya Guardado v. Merrick Garland persecution; related issues.

22-1328 [Briefs](#) BANKRUPTCY: Whether bankruptcy court may consider reasonableness of secured debt expense deduction by an above-
Joseph Bledsoe, III v. Cheryl Cook median income Chapter 13 debtor when calculating projected disposable income.
(Warren)

22-1907 [Briefs](#) IMMIGRATION: Whether violation of Va. Code Ann. sec. 19.2-82.1, prohibiting falsely identifying oneself to police officer
Moises Cruz Cruz v. Merrick Garland with intent to deceive, is categorically crime involving moral turpitude.

PANEL V
Judge Thacker, Judge Heytens, Senior Judge Keenan
Tweed Courtroom (Room 414-D)
9:30 a.m.

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Friday, May 5, 2023

21-4299 [Briefs](#) CRIMINAL: Whether any error in failing to submit to jury whether defendant had prior "serious drug felony" conviction
US v. Austin Lee for 21 U.S.C. section 851 purposes was harmless.
(Flanagan)

19-1498 [Briefs](#) CIVIL: Whether district court properly applied North Carolina law in determining subcontractor's insurer's duty to
Westfield Insurance Company v. Selective defend contractor; other issues.
(Britt)

22-4284 [Briefs](#) SENTENCING: Whether district court erred by applying enhancements for possession of firearm in connection with
US v. Patrick Mitchell another felony and assaulting a law enforcement officer. (15 mins.)
(Boyle)

PANEL I
Judge Rushing, Judge Benjamin, Senior Judge Keenan
Red Courtroom (Room 412)
8:30 a.m.

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21-4634 [Briefs](#) CRIMINAL: Whether the district court erred by denying motion to suppress evidence recovered during a Terry stop.
US v. Xavier Howell
(Gibney)

21-1242 [Briefs](#) CIVIL RIGHTS: Probable cause to arrest school bus driver for disorderly conduct in verbal altercation with student;
Addie Thweatt v. Ronald Rhodes whether complaint sufficiently alleges causation.
(Hudson)

PANEL II
Judge Niemeyer, Judge Heytens, Judge Cogburn
Butzner Courtroom 201
8:30 a.m.

Friday, May 5, 2023

*Hon. Max O. Cogburn, Jr., United States District Judge, Western District of North Carolina

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Friday, May 5, 2023

22-4221 [Briefs](#) CRIMINAL: Whether physician's guilty plea to prescribing controlled substances in unauthorized manner is valid after
US v. Jong Kim Ruan v. United States, 142 S. Ct. 2370.
(Flanagan)

22-1591 [Briefs](#) ADMINISTRATIVE LAW: Whether the district court erred in finding no genuine dispute existed regarding the propriety of
Blair Coleman v. Frank Kendall veteran's disability rating.
(Conrad)

21-4457 [Briefs](#) SENTENCING. Whether 18 U.S.C. 3664(o) provides exclusive means for modifying restitution order. Other issues.
US v. Deonte Curry
(Conrad)
Associations: 21-4713

PANEL III
Judge Agee, Judge Wynn, Senior Judge Hudson
Blue Courtroom (Room 339)
8:30 a.m.

Friday, May 5, 2023

*Hon. Henry E. Hudson, Senior United States District Judge, Eastern District of Virginia

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