

Tuesday, October 26, 2021

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20-0004 [Briefs](#)  
James Bryant, III v. Michael Stephan  
( Hendricks )

REHEARING EN BANC

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19-4104 [Briefs](#)  
US v. Precias Freeman  
( Cain )

REHEARING EN BANC

En Banc Panel  
9:30 a.m.

Tuesday, October 26, 2021

[WATCH](#)

Wednesday, October 27, 2021

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16-1920 [Briefs](#)  
Randy Coley v. DIRECTV, Inc.  
( Urbanski )  
Associations: 16-1943, 16-1946

CIVIL: Whether the Federal Communications Act authorizes attorney's fees for defending on appeal a district court's order entered during postjudgment collection proceedings.

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21-1134 [Briefs](#)  
Jeffery Moore v. Equitrans, L.P.  
( Bailey )

CIVIL: Whether district court erred in granting judgment sua sponte in favor of appellees; related issues.

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20-2124 [Briefs](#)  
Riccy Funez-Munguia v. Merrick Garland

IMMIGRATION: Whether substantial evidence supports the finding that the Petitioner failed to show a nexus to a protected ground; related issues.

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20-7746 [Briefs](#)  
US v. Dwight Jenkins  
( Blake )

CRIMINAL: Whether denial of compassionate release was procedurally unreasonable when district court explained its rationale via memorandum after appellant's time for noticing appeal had expired.

PANEL I  
9:30 a.m.

Wednesday, October 27, 2021

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Wednesday, October 27, 2021

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20-2357 [Briefs](#)  
George Howe v. Correction Enterprises  
( Howard )

CIVIL: Whether decedent's employment status barred section 1983 action arising from fatal attack by prison inmates on maintenance worker during attempted prison break; related issues.

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20-2245 [Briefs](#)  
Tracy Sempowich v. Tactile Systems Technology  
( Dever )

EMPLOYMENT: Whether district court erred in weighing evidence to grant summary judgment, comparing differing wage rates among comparators in Equal Pay Act claim; related issues.

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19-7634 [Briefs](#)  
Brad Faver v. Harold Clarke  
( Hoppe )

CIVIL RIGHTS: Whether the magistrate judge erred in finding that single vendor policy was least restrictive means under RLUIPA for VDOC to further compelling interests.

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21-1141 [Briefs](#)  
Harry Pennington, III v. Fluor Enterprises, Inc.  
( Childs )

CIVIL: Whether appellees qualified as an employer required to give notice to employees prior to plant shutdown under WARN Act.

Associations: 21-1143

PANEL II  
9:30 a.m.

Wednesday, October 27, 2021

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19-2345 Gredis Platero v. Merrick Garland	<a href="#">Briefs</a>	IMMIGRATION: Whether In re L-E-A-, 27 I. & N. Dec. 581 (A.G. 2019) alters this Court's precedent that family is a cognizable particular social group; related issues.
Associations: 20-2277		
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20-1651 In re: Capitol Broadcasting Co. ( Boyle )	<a href="#">Briefs</a>	CIVIL: Media challenge to denial of intervention and sealing of district court record.
Associations: 20-1652		
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21-1153 Lighthouse Fellowship Church v. Ralph Northam ( Allen )	<a href="#">Briefs</a>	CONSTITUTIONAL LAW: Whether Eleventh Amendment precludes suit against Virginia governor for alleged violations of federal law related to now-lifted COVID-19 restrictions; related issues.
<hr/>		
20-7830 US v. Ardit Ferizi ( Brinkema )	<a href="#">Briefs</a>	POSTCONVICTION: Whether district court abused its discretion in granting defendant's motion for compassionate release in light of factual record.

PANEL III  
9:30 a.m.

Wednesday, October 27, 2021

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19-1995 [Briefs](#) CIVIL: Whether permanent injunction prohibiting state court litigation violates the Anti-Injunction Act; related issues.  
Steves and Sons, Inc. v. Jeld-Wen, Inc.  
( Payne )

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19-2217 [Briefs](#) INSURANCE: Whether loss from damage to underground pipe was covered under policy or coverage endorsements; other issues.  
Blissful Enterprises, Inc. v. Cincinnati  
( Russell )

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20-1640 [Briefs](#) INSURANCE: Whether insurance policy's collapse endorsement provided coverage for loss caused by breezeway that cracked and shifted downward by one foot; other issues.  
DENC, LLC v. Philadelphia Indemnity Ins.  
( Eagles )  
Associations: 20-1644

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20-1776 [Briefs](#) CONSTITUTIONAL LAW: Whether North Carolina's non-criminal "Anti-Sunshine Law" violates First and Fourteenth Amendments.  
PETA v. NC Farm Bureau  
( Schroeder )  
Associations: 20-1777, 20-1807

PANEL IV  
2:00 p.m.

Wednesday, October 27, 2021

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20-1765 Bruce Berg v. Kingdom of the Netherlands ( Hendricks )	<a href="#">Briefs</a>	CIVIL: Whether entities are political subdivisions of Netherlands under Foreign Sovereign Immunities Act; personal jurisdiction; standing; other issues.
21-1300 Haritha Nadendla v. WakeMed ( Howard )	<a href="#">Briefs</a>	CIVIL RIGHTS: Whether trial court erred in finding appellant failed to state a claim for race discrimination under 42 U.S.C. section 1981; related issues.
21-1197 Jeffery Stanton v. Cory Elliott ( Bailey )	<a href="#">Briefs</a>	CIVIL: Whether district court erred in finding qualified immunity precluded liability for fatal shooting by law enforcement officer; related issues.
20-1828 Marvin Miranda v. Merrick Garland ( Blake )	<a href="#">Briefs</a>	IMMIGRATION: Whether district court erred granting preliminary injunction in favor of immigration detainee challenging constitutionality of immigration court's section 1226(a) bond hearing procedures.

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PANEL V  
2:00 p.m.

Wednesday, October 27, 2021

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Thursday, October 28, 2021

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21-4093 US v. Robert Ellis ( Reidinger )	<a href="#">Briefs</a>	CRIMINAL: Whether a condition of supervised release requiring probation officer's approval to possess any internet-capable device is overbroad or impermissibly delegates judicial decision making.
20-2253 RLI Insurance Company v. Nexus Services, Inc. ( Urbanski )	<a href="#">Briefs</a>	CONTRACT: Whether district court erred in interpreting contract provisions regarding collateral security in immigration bond surety agreement; related issues.
21-1058 William Lyons v. PNC Bank ( Gallagher ) Associations: 21-1289	<a href="#">Briefs</a>	CIVIL: Whether TILA allows lender to compel arbitration related to a home loan dispute under arbitration clause in borrower's deposit account agreement with same lender.
21-1260 Richard Krueger, Jr. v. Michael Angelos ( Russell )	<a href="#">Briefs</a>	LABOR: Whether dispute arising from union trust agreement is arbitrable under Section 302(c)(5)(B) of the LMRA.

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PANEL I  
9:30 a.m.

Thursday, October 28, 2021

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20-2361	<a href="#">Briefs</a>	EMPLOYMENT: Whether district court erred in concluding harassment by minor child of supervisor could not be imputed to employer in hostile workplace claim; related issues.
Tonya Chapman v. Oakland Living Center, ( Reidinger )		
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20-1656	<a href="#">Briefs</a>	EMPLOYMENT: Whether district court correctly granted summary judgment to employer on claim of Title VII race discrimination for delaying firefighter's admission into internship required for promotion.
Micheall Lyons v. City of Alexandria ( O'Grady )		
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20-2330	<a href="#">Briefs</a>	CIVIL: Whether prescription drug rebate statute is ambiguous such that representations based on an incorrect interpretation cannot qualify as false under the False Claims Act.
United States ex rel. Deborah v. Allergan Sales, ( Hollander )		
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20-2080	<a href="#">Briefs</a>	LABOR: Whether federal common law rule regarding punitive liquidated-damages provisions applies to claims brought pursuant to Section 301 of Labor Management Relations Act.
Plumbers & Pipefitters v. Nitro Construction ( Copenhaver )		

PANEL II  
9:30 a.m.

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20-0012	<a href="#">Briefs</a>	POSTCONVICTION: Ineffective assistance and other challenges to state capital conviction and sentence.
Marion Bowman, Jr. v. Bryan Stirling ( Wooten )		
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20-2243	<a href="#">Briefs</a>	CIVIL RIGHTS: Whether district court erred by granting qualified immunity to officer on excessive force claim based on use of deadly force; other issues.
Melissa Knibbs v. Anthony Momphard, Jr. ( Cogburn )		
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20-2034	<a href="#">Briefs</a>	IMMIGRATION: Whether the Board of Immigration Appeals erred by finding the proposed social group not cognizable; related issues.
Maria Alvarado v. Merrick Garland		
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20-1582	<a href="#">Briefs</a>	IMMIGRATION: Whether plaintiff in 8 U.S.C. section 1447(b) naturalization action qualified as prevailing party under Equal Access to Justice Act.
Junfei Ge v. US Citizenship and Immigration ( Gibney )		

PANEL III  
9:30 a.m.

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19-4786 [Briefs](#) SENTENCING: Whether district court adequately explained reasons for imposing longer sentence on remand  
US v. Joseph Aberant than original sentence.  
( Boyle )

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20-1483 [Briefs](#) JURISDICTION: Whether district court erred by finding federal question jurisdiction and denying motion to  
Old Dominion Electric v. PJM Interconnection, remand case removed from state court.  
( Lauck )

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20-1906 [Briefs](#) CIVIL RIGHTS: Whether district court erroneously denied Defendants qualified immunity against Plaintiff's  
Angela Lawhon v. Alexander Mayes excessive force claim brought pursuant to 42 U.S.C. section 1983; other issues.  
( Hudson )  
Associations: 20-1907, 20-1908

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19-7471 [Briefs](#) POSTCONVICTION: Whether district court may replace Johnson-infirm predicate by counting multiple  
US v. Robert Benton, Jr. convictions as multiple predicates when sentencing court counted same convictions as single predicate.  
( Currie )

PANEL IV  
2:00 p.m.

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20-2001 [Briefs](#)  
Western World Insurance Group v. Church  
( Seymour )

INSURANCE: Whether district court improperly granted equitable relief when a contractual remedy was available. Other issues.

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20-2173 [Briefs](#)  
New River Electrical Corp. v. OSHC

CIVIL: Whether substantial evidence supports imposition of sanctions by Occupational Safety & Health Review Commission for violation of 29 C.F.R. sections 1926.961-962; other issues.

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21-1087 [Briefs](#)  
Pia McAdams v. Nationstar Mortgage  
( Sullivan )

CLASS ACTION: Whether district court erred in granting final approval to class action settlement.

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20-1980 [Briefs](#)  
Amanda Hailey v. Air & Liquid Systems Corp  
( Chasanow )

CIVIL: Whether district court properly determined plaintiffs failed, under Maryland or maritime law, to establish causation in suit alleging wrongful death due to mesothelioma.

PANEL V  
2:00 p.m.

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21-1039 [Briefs](#)  
Wild Virginia v. United States Forest Service

Associations: 21-1082

MOUNTAIN VALLEY PIPELINE: Review of Forest Service and Bureau of Land Management decisions authorizing pipeline crossing of Jefferson National Forest.

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20-2159 [Briefs](#)  
Appalachian Voices v. US Dept of Interior

MOUNTAIN VALLEY PIPELINE: Whether Fish and Wildlife Service's Biological Opinion and Incidental Take Statement appropriately considered pipeline project's impact on wildlife protected by Endangered Species Act.

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20-2275 [Briefs](#)  
Systems Application & Tech v. US  
( Xinis )

JURISDICTION: Whether district court erred by dismissing Navy contractor's claims for declaratory relief under the Contract Disputes Act for lack of jurisdiction.

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20-4420 [Briefs](#)  
US v. Soterio Hope  
( Lewis )

CRIMINAL: Whether prior convictions under S.C. Code Ann. section 44-53-445 are divisible as to drug type and therefore amenable to the modified categorical approach; other issues.

PANEL I  
9:30 a.m.

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19-4888 [Briefs](#)  
US v. Mikkell McKinnie  
( Dever )

SENTENCING: Whether district court erred in finding that death resulted from defendant's distribution of fentanyl and imposing an upward departure or variance.

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20-4076 [Briefs](#)  
US v. Delton Warren  
( Flanagan )

CRIMINAL: Whether district court erred in denying motion to suppress evidence obtained pursuant to unsigned search warrant; other issues.

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19-1854 [Briefs](#)  
Robert Shupe v. Hartford Life & Accident Ins  
( Hilton )

ERISA: Whether district court erred by concluding on summary judgment that appellant was not entitled to long-term disability benefits under ERISA plan; other issues.

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17-4277 [Briefs](#)  
US v. Vaxima, Inc.  
( Hendricks )

CRIMINAL: Direct criminal appeal raising multiple issues related to sufficiency of indictment, denial of motion to suppress, judicial bias, validity of sentencing and forfeiture orders, others.

Associations: 17-4278

PANEL II  
9:30 a.m.

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21-1051 [Briefs](#)  
David S. Brown Enterprises v. Affiliated FM  
( Gallagher )

INSURANCE: Whether district court properly determined the number of occurrences relating to water damage and applicable policy limits; other issues.

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21-4067 [Briefs](#)  
US v. Lenair Moses  
( Flanagan )

SENTENCING: Whether district court erred in classifying appellant's state court conviction as a "prior conviction" supporting career offender enhancement rather than relevant conduct; related issues.

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20-4115 [Briefs](#)  
US v. Donald Dodt  
( Cogburn )

CRIMINAL: Whether evidence was sufficient to support convictions; other issues.

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19-7621 [Briefs](#)  
Chawntel McCoy v. Correctional Officer  
( Chambers )

CIVIL RIGHTS: Whether use of force against pretrial detainee was objectively unreasonable.

PANEL III  
9:30 a.m.

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20-0011 [Briefs](#) POSTCONVICTION: Challenge to state capital conviction and sentence based on ineffective assistance of counsel.  
John Wood v. Bryan Stirling  
( Norton )

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20-2268 [Briefs](#) CIVIL: Whether district court abused its discretion by granting application for judicial assistance to obtain  
discovery for use in foreign proceeding pursuant to 28 U.S.C. section 1782.  
In re: Application of Newbrook  
( Bredar )

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20-1074 [Briefs](#) TAX: Whether the tax court has jurisdiction to determine an overpayment or to order a refund or credit of taxes  
paid in a 26 U.S.C. section 6330 collection due process proceeding.  
Brian McLane v. IRS

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20-4285 [Briefs](#) CRIMINAL: Whether the district court erred in finding police did not unconstitutionally prolong the duration of  
a traffic stop pending the arrival of a drug-sniffing canine unit; other issues.  
US v. Joffrey Perez  
( Conrad )

PANEL IV  
2:00 p.m.

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21-1147 [Briefs](#) IMMIGRATION: Whether BIA erred in failing to reach jurisdictional question related to IJ's belated issuance of an oral decision; other issues.  
Rosa Ponce-De Ascencio v. Merrick Garland

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21-4026 [Briefs](#) CRIMINAL: Whether district court erred in calculating maximum term of supervised release for a violation of 21 U.S.C. section 841(b)(1)(D).  
US v. Carlos Perez  
( Osteen )

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20-2021 [Briefs](#) ADMINISTRATIVE LAW: Whether Administrative Law Judges were constitutionally appointed; whether removal protections for Administrative Law Judges violate doctrine of separation of powers.  
K & R Contractors, LLC v. DOWCP

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18-4883 [Briefs](#) CRIMINAL: Whether district court erred in finding that previous state conviction qualified as controlled substance offense based on Shepard documents.  
US v. Cory Boyd  
( Wooten )

PANEL V  
2:00 p.m.

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