

Tuesday, September 24, 2024

22-1879	Briefs	BLACK LUNG: Whether the ALJ applied the correct legal framework and considered all relevant evidence and whether the ALJ's decision is supported by substantial evidence. 15 mins.
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23-1723	Briefs	IMMIGRATION: Whether, when BIA member ruled after expiration of six-month temporary term under 8 C.F.R. section 1003.1(a)(4), BIA's ruling was ultra vires; other issues.
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23-1835	Briefs	CIVIL: Whether district court had authority to impose sanctions for conduct that occurred in another judicial forum; other issues.

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

Tuesday, September 24, 2024

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22-4463	Briefs	CRIMINAL: As applied constitutional challenge to 18 U.S.C. section 844(f)(1), arson of structure owned by organization or institution receiving federal funds.
US v. Charles Pittman (Myers)		
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24-6086	Briefs	POSTCONVICTION: Government appeal of district court's grant of habeas relief based on Brady violations, requiring new trial within 60 days or release from custody.
Charles Martin v. Jeffrey Nines (Rubin)		
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23-2020	Briefs	ARBITRATION: Whether the district court correctly denied Appellants' motion to compel arbitration and dismiss; other issues.
Michael Naimoli, Jr. v. Pro-Football, Inc. (Chuang)		
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24-1265	Briefs	VOTING RIGHTS: Challenge to district court's denial of Eleventh Amendment Immunity in felon disenfranchisement case.
Tati King v. Glenn Youngkin (Gibney)		

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

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23-4174 [Briefs](#) SENTENCING: Whether district court adequately addressed arguments for a lower sentence. 15 mins.
US v. William Davis, Jr.
(Young)

23-4377 [Briefs](#) CRIMINAL: Whether Defendants' challenges to conditions imposed on their 60-month probationary sentences are
US v. Rhonda Notgrass barred by the appeal waivers in their plea agreements.
(Berger)
Associations: 23-4378

23-1033 [Briefs](#) CIVIL: Whether district court erred in granting setoff of jury's damages award upon finding that damages could not be
W.S. v. Cassandra Daniels allocated between defendants.
(Coggins)
Associations: 23-1038

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

Tuesday, September 24, 2024

[LISTEN](#)

*Hon. William L. Osteen, Jr., United States District Judge, Middle District of North Carolina

Tuesday, September 24, 2024

23-4011 [Briefs](#)
US v. Jarred Ford
(Boyle)

CRIMINAL: Whether Defendant validly waived his right to the assistance of counsel at trial; whether Defendant's sentence is procedurally reasonable; other issues.

20-6853 [Briefs](#)
Edwin Escobar-Salmeron v. Stephen Moyer
(Bennett)

CIVIL: Whether the district court erred in granting summary judgment to Defendants on excessive force claim without addressing Plaintiff's discovery request.

22-1741 [Briefs](#)
Island Creek Coal Company v. Jerry L.
Blankenship

BLACK LUNG: Whether ALJ conflated elements of pneumoconiosis and total disability when determining miners eligibility for benefits; other issues. 15 Mins.

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

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22-4055 [Briefs](#)
US v. Robert Turner
(Schroeder)

CRIMINAL: Whether district court erred in declining to suppress firearm recovered during warrantless search of vehicle incident to defendant's arrest for larceny of a firearm.

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

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Wednesday, September 25, 2024

22-6923 US v. Allen McNeil (Dever)	Briefs	POSTCONVICTION: Whether trial counsel provided ineffective assistance by failing to move to suppress evidence seized from an outbuilding on the curtilage of Appellant's residence.
22-2192 Matthew Linger v. Commissioner of Social (Kleeh)	Briefs	SOCIAL SECURITY: Whether the ALJ adequately explained the non-exertional limitations in the residual functional capacity; other issues. 15 Mins.
22-1814 Davina Ricketts v. Wake County Public (Flanagan)	Briefs	CIVIL RIGHTS: Whether Plaintiff adequately pleaded Title VI claim or equal protection violation stemming from race-based harassment during election for high school student council.
23-4264 US v. William Jeffery (Dever)	Briefs	CRIMINAL: Whether district court erred in denying defendant's motion to suppress images uploaded to private search engine; other issues.

PANEL I
Judge Gregory, Judge Harris, Judge Gibney*
Red Courtroom (Room 412)
9:30 a.m.

Wednesday, September 25, 2024

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*Hon. John A. Gibney, Jr., United States Senior District Judge, Eastern District of Virginia

Wednesday, September 25, 2024

23-4509 [Briefs](#) CRIMINAL: Sufficiency of evidence for wire fraud as aider/abettor and principal; propriety of district court's waiver of
US v. Russell Laffitte interest on restitution; other issues.
(Gergel)
Associations: 23-4566

23-1709 [Briefs](#) CIVIL: Whether district court erred in dismissing pro se plaintiff's facsimile-filed complaint filed on last day of statute of
Jay Folse v. Tiffany Hoffman limitations period.
(Bailey)

23-1141 [Briefs](#) CIVIL: Propriety of summary judgment in action challenging NIH responses to FOIA requests regarding submission and
Empower Oversight Whistleblowers & withdrawal of COVID-19 genetic sequences to database.
Research v. National Institutes of Health
(Brinkema)

PANEL II
Judge Agee, Judge Thacker, Judge Heytens
Butzner Courtroom 201
9:30 a.m.

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23-1541	Briefs	CIVIL RIGHTS: Whether magistrate judge properly denied qualified immunity to correctional officers on Eighth Amendment deliberate indifference claim related to inmate's suicide; other issues.
Edward Gelin v. Baltimore County, Maryland (Copperthite)		
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23-6604	Briefs	CRIMINAL: Whether Maryland robbery remains a violent felony after the Supreme Court's decision in Borden v. United States, 593 U.S. 420 (2021).
US v. David Shanton, Sr. (Blake)		
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23-1911	Briefs	CIVIL: Challenge to district court's dismissal of case arising from consumer dispute under the Fair Credit Reporting Act.
Shelby Roberts v. Carter-Young, Inc. (Osteen)		
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21-6992	Briefs	POSTCONVICTION: Whether Powell's trial counsel provided ineffective assistance by failing to investigate a residential lease when challenging a sentencing enhancement.
US v. Nathaniel Powell (Allen)		

PANEL III
Judge Diaz, Judge Niemeyer, Judge Quattlebaum
Blue Courtroom (Room 339)
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23-4029 [Briefs](#)

US v. Margaret Sutton
(Young)

CRIMINAL: Whether there was sufficient evidence to support drug and firearm convictions.

23-2164 [Briefs](#)

Siddhanth Sharma v. Alan Hirsch
(Myers)

CIVIL RIGHTS: Challenge to procedures for placing candidates on North Carolina primary ballot.

23-1882 [Briefs](#)

Tiber Creek Partners, LLC v. Ellume USA LLC
(Nachmanoff)

CONTRACT: Whether the district court correctly dismissed Appellant's actions under the forum non conveniens doctrine; other issues.

22-1081 [Briefs](#)

Clay Fitzgerald v. Botetourt County, Virginia
(Ballou)

EMPLOYMENT: In ADEA action, whether employer's stated reason for terminating employee was a legitimate, non-discriminatory reason or a pretext for age discrimination.

PANEL IV
Judge Wilkinson, Judge Richardson, Judge Rushing
Gold Courtroom (Room 348)
9:30 a.m.

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23-4184 [Briefs](#)
US v. Stephan Bullis
(Flanagan)

SENTENCING: Whether Bullis had fully discharged sentences on certain offenses such that the court violated Double Jeopardy on resentencing by increasing sentences on those offenses.

23-2108 [Briefs](#)
USA Farm Labor, Inc. v. Julie Su
(Reidinger)

CIVIL: Challenge to district court's refusal to preliminarily enjoin DOL's Final Rule regarding methodology for setting H-2A agricultural worker visa program's Adverse Effect Wage Rate.

23-1887 [Briefs](#)
West Virginia Parents for Religious Freedom
v. Matthew Christiansen
(Bailey)

CIVIL: Whether enactment of W. Va. Code section 35-1A-1 moots First Amendment challenge to public school vaccination mandate, W. Va. Code section 16-3-4.

23-1349 [Briefs](#)
Thomas Fluharty v. Philadelphia Indemnity
Insurance Company
(Groh)

BANKRUPTCY: Whether an insurance policy's right to consent to settlement becomes property of the insured's bankruptcy estate; issues of standing.

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

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Thursday, September 26, 2024

23-0002 [Briefs](#)

US v. Chadrick Fulks
(Anderson)

Associations: 23-0003

CAPITAL CASE: Whether convictions for kidnapping resulting in death and carjacking resulting in death qualify as crimes of violence under 18 U.S.C. 924(c)(3).

23-1960 [Briefs](#)

Mohamed Lamine Kouyate v. Merrick Garland

IMMIGRATION: Multi-pronged challenge to agency's denial of deferral of removal; whether Petitioner waived arguments related to aggravated felony/particularly serious crime designations.

PANEL I

Judge Wilkinson, Judge King, Judge Agee

Red Courtroom (Room 412)

9:30 a.m.

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22-6513 [Briefs](#) POSTCONVICTION: Whether district court erred in denying 28 U.S.C. section 2254 petition alleging ineffective assistance arising out of failure to request Remmer hearing.
Jeremiah Sweeney v. Richard Graham, Jr.
(Grimm)

23-1729 [Briefs](#) ARBITRATION: Whether arbitrator was required to issue a reasoned award, and if so, whether arbitrator satisfied standard for such an award.
Design Gaps, Inc. v. Shelter, LLC
(Gergel)

23-1493 [Briefs](#) CIVIL: Whether court erred in finding renewed motion under Fed. R. Civ. P. 50(b) was not based on grounds raised at close of evidence; related issues.
James Boley, Jr. v. Armor Correctional Health Services, Inc.
(Young)

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

Thursday, September 26, 2024

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*Hon. Terrence W. Boyle, United States District Judge, Eastern District of North Carolina

Thursday, September 26, 2024

23-4216	Briefs	SENTENCING: Whether the district court procedurally erred by failing to address the defendant's argument for a lower sentence, and if so, whether that error is harmless. 15 Mins.
US v. Tytus Shields (Goodwin)		
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23-1965	Briefs	ARBITRATION: Whether district court properly compelled arbitration of claims related to later contract not containing arbitration clause because earlier contract between same parties contained arbitration clause.
Modern Perfection, LLC v. Bank of America, N.A. (Griggsby)		
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23-2101	Briefs	CIVIL: Whether stipulated penalty provisions in corporate integrity agreement were "obligations" for purposes of a reverse false claim under 31 U.S.C. section 3729; other issues.
United States ex rel. Lisa Wheeler v. Acadia Healthcare Company, Inc. (Reidinger)		

PANEL III
Judge Harris, Judge Heytens, Judge Berner
Blue Courtroom (Room 339)
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22-2289	Briefs	CLASS ACTION: Whether mortgage company's appraisal process resulted in cognizable injury for purposes of standing.
Phillip Alig v. Rocket Mortgage, LLC (Bailey)		
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21-7491	Briefs	POSTCONVICTION: Whether counsel's failure to argue Commonwealth shifted burden of proof regarding intoxication defense to premeditation element of attempted capital murder was ineffective; other issues.
David Frizzell v. Chadwick Dotson (Jones)		
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23-1192	Briefs	CIVIL: Contract dispute over power companies' plan to purchase energy during off-peak times and store it on batteries, avoiding increased demand charges under contract with wholesaler.
Appalachian Power Company v. FERC		
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23-2083	Briefs	CIVIL: Whether credit card agreement's arbitration clause is enforceable against military servicemembers in light of 2019 amendments to the Servicemembers Civil Relief Act.
Pablo Espin v. Citibank, N.A. (Boyle)		

PANEL IV
Judge Niemeyer, Senior Judge Floyd, Judge Bell*
Gold Courtroom (Room 348)
9:30 a.m.

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*Hon. Kenneth D. Bell, United States District Judge, Western District of North Carolina

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22-6189 [Briefs](#) POSTCONVICTION: Whether Appellant can utilize 28 U.S.C. section 2255(e)'s savings clause to challenge the legality of
Jason Bell v. J. Streeval his sentence under 28 U.S.C. section 2241.15 Mins.
(Dillon)

23-1673 [Briefs](#) EMPLOYMENT: Whether district court correctly applied the "manager's rule" in granting Defendant summary judgment
Byron Johnson v. Eldor Automotive on FLSA retaliation claim; other issues.
(Urbanski)

21-1475 [Briefs](#) CIVIL: Whether the district court properly dismissed Patel's Privacy Act claims for lack of subject matter jurisdiction;
Monal Patel v. United States Department of other issues.
the Army
(Hilton)

23-1638 [Briefs](#) CIVIL RIGHTS: Whether civilian officer who left jurisdiction and initiated traffic stop based only on "feeling that
Curtis Wells, Jr. v. Javier Fuentes something was wrong" was entitled to qualified immunity.
(Nachmanoff)

PANEL V
Judge Thacker, Judge Richardson, Judge Benjamin
Tweed Courtroom (Room 414-D)
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23-1880 [Briefs](#)
M.P. v. Meta Platforms Inc.
(Gergel)

TORT: Whether Section 230 of the Communications Decency Act immunizes social media company for torts arising from the company's platform design; other issues.

23-0257 [Briefs](#)
In re: Scott Rendelman

POSTCONVICTION: Whether Counterman v. Colorado, 143 S. Ct. 2106 (2023), is a new rule of constitutional law that applies retroactively to cases on collateral review.

23-4633 [Briefs](#)
US v. Joshua Belcher
(Urbanski)

CRIMINAL: Whether district court erroneously excluded evidence of stepfather's prior conviction during defendant's trial for illegally possessing firearm found in his stepfather's car; other issues.

PANEL VI
Chief Judge Diaz, Judge Rushing, Senior Judge Keenan
Tan Courtroom (Room 223)
9:30 a.m.

Thursday, September 26, 2024

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Friday, September 27, 2024

21-2367 [Briefs](#)
Bryan Molina-Diaz v. Merrick Garland

IMMIGRATION: Propriety of agency's analysis of "government control element" for asylum claim and of ineffective assistance of counsel claim as related to reopening; other issues.

Associations: 23-1923

23-4339 [Briefs](#)
US v. Christopher Kuehner
(Brinkema)

CRIMINAL: Whether conviction for engaging in child exploitation enterprise requires proof that defendant committed each predicate felony violation in concert with three others; other issues.

23-4607 [Briefs](#)
US v. Stephen Simmons
(Chambers)

CONSTITUTIONAL LAW: Constitutionality of 18 U.S.C. section 922(g)(3) and application of USSG section 2K2.1(a)(4)(B)(ii)(I) following Bruen.

PANEL I
Judge Gregory, Judge Quattlebaum, Judge Berner
Red Courtroom (Room 412)
8:30 a.m.

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23-1910 [Briefs](#)
Fabian Grey v. Ur Jaddou
(Norton)

IMMIGRATION: Summary judgment on naturalization petition for lack of good moral character; exemption and sealing of FOIA records after public disclosures.

23-4615 [Briefs](#)
US v. David Chang
(Gibney)

SENTENCING: Whether increased term of supervise release imposed on remand for resentencing was vindictive.

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

Friday, September 27, 2024

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22-1560 [Briefs](#) IMMIGRATION: Whether, under 8 U.S.C. section 1252(a)(2)(B)(i), (D), this Court has jurisdiction to review Petitioner's
Adolfo Acevedo Ibarra v. Merrick Garland arguments pertaining to agency's adverse moral character ruling.

23-2176 [Briefs](#) CIVIL: Whether nurses were employees or independent contractors for purposes of FLSA.
Julie Su v. Medical Staffing of America, LLC
(Jackson)
Associations: 23-2284

23-2013 [Briefs](#) EMPLOYMENT: Whether district court correctly granted summary judgment on unlawful medical inquiry claim after
John Sigley v. ND Fairmont LLC finding that Plaintiff voluntarily disclosed medical information to Defendant; other issues.
(Kleeh)

PANEL III
Judge King, Judge Richardson, Senior Judge Floyd
Blue Courtroom (Room 339)
8:30 a.m.

Friday, September 27, 2024

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23-4302 [Briefs](#)
US v. Herbert Murillo-Lopez
(Ellis)

CRIMINAL: Whether admission during sentencing hearing can substitute for proof of element during trial;
constitutionality of 18 U.S.C. section 922(g)(5) following Bruen; other issues.

23-4572 [Briefs](#)
US v. Mark Bolling
(Faber)

CRIMINAL: Whether officer had reasonable suspicion to extend traffic stop to conduct dog sniff; multiple other issues.

PANEL IV
Chief Judge Diaz, Judge Heytens, Judge Benjamin
Gold Courtroom (Room 348)
8:30 a.m.

Friday, September 27, 2024

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23-4580 [Briefs](#)
US v. Jarvis Jackson
(Herlong)

SENTENCING: Whether the district court violated the mandate rule at resentencing by again enhancing Sentencing Guidelines range based on prior South Carolina drug distribution convictions. 15 mins.

23-4051 [Briefs](#)
US v. Cornelius Mayberry
(Hendricks)

CRIMINAL: Whether district court erred by denying motion to suppress evidence acquired after warrantless arrest and warrantless search of backpack; other issues.

23-4675 [Briefs](#)
US v. Rose-Marie Nsahlai
(Alston)

CRIMINAL: Whether district court erred by prohibiting evidence that spouse was controlling and abusive as defense to the mens rea element of offenses; other issues.

PANEL V
Judge Agee, Judge Harris, Senior Judge Keenan
Tweed Courtroom (Room 414-D)
8:30 a.m.

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