

Tuesday, December 5, 2023

22-2114	Briefs	IMMIGRATION: Propriety of treating previously admitted noncitizen who applies to adjust status as an alien seeking admission and thus imposing higher evidentiary burden.
Sintia Nivar Santana v. Merrick Garland		

22-2285	Briefs	IMMIGRATION: Whether the agency acted ultra vires in investigating potential prior marriage fraud; whether applicants should be allowed to examine derogatory evidence; other issues.
Robert Mestaneck v. Ur Jaddou (Hendricks)		

22-4340	Briefs	CRIMINAL: Whether Appellant undermined the removal order because he was a minor during removal proceedings; related issues.
US v. Reymundo Camero-Castaneda (Dever)		

22-6263	Briefs	POST CONVICTION: Whether appellate waiver precluding appeal or collateral attack of defendant's sentence encompasses an appeal from the denial of an 18 U.S.C. section 3583(e)(1) motion.
US v. Christopher Zoukis (Reidinger)		

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

Tuesday, December 5, 2023

[LISTEN](#)

Tuesday, December 5, 2023

22-4519	Briefs	CRIMINAL: Whether 18 U.S.C. section 922(g)(1) violates the Second Amendment following Supreme Court's decision in Bruen; impact of mandate rule; propriety of sentence.
US v. Zavien Canada		
(Herlong)		

22-2252	Briefs	BANKRUPTCY: Multi-issue challenge to conclusion that appellant's restitution was non-dischargeable in bankruptcy.
Dedre Feyijinmi v. State of Maryland Central		
(Bennett)		

PANEL II
Chief Judge Diaz, Judge Harris, Judge Heytens
Butzner Courtroom 201
9:30 a.m.

Tuesday, December 5, 2023

[LISTEN](#)

Tuesday, December 5, 2023

23-1890	Briefs	CONSTITUTIONAL LAW: Challenge to denial of preliminary injunction to require prior notification and opt-out option when LGBTQ+ books are included in school curriculum.
Tamer Mahmoud v. Monifa McKnight (Boardman)		
22-1406	Briefs	EMPLOYMENT: Whether employee can state prima facie case of quid pro quo sexual harassment based on employer's unwelcome advances following termination of consensual romantic relationship.
Teresa Nixon v. Kysela Pere Et Fils, LTD (Cullen)		
22-2095	Briefs	CIVIL: Challenge to district court's dismissal of case as a litigation sanction, alternative grant of summary judgment.
Jerome Johnson v. Baltimore Police (Hollander)		
Associations: 22-2134		
22-2276	Briefs	IMMIGRATION: Whether "Salvadoran women" is cognizable social group; whether "nexus" and government "unwilling or unable to protect" requirements were met; CAT protection.
Beatriz Nunez-Gonzalez v. Merrick Garland		

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

Tuesday, December 5, 2023

[LISTEN](#)

Tuesday, December 5, 2023

22-7305	Briefs	CIVIL RIGHTS: Whether allegations amounted to sexual abuse of prisoner, excusing exhaustion requirement pursuant to Prison Rape Elimination Act; Fourth and Eighth Amendment claims.
Earl Johnson, Jr. v. Richard Robinette (Hazel)		

21-1157	Briefs	EMPLOYMENT: Propriety of dismissing complaint as time-barred under FMLA and denying leave to amend based on notice of employment termination constituting last event of discrimination.
Stanford Weaver v. USPS (Childs)		

22-4588	Briefs	CRIMINAL: Whether assault by strangulation, N.C. Gen. Stat. section 14-32.4(b), qualifies as crime of violence following United States v. Taylor, 142 S. Ct. 2015 (2022).
US v. Ricky Robinson (Whitney)		

PANEL IV
Judge Niemeyer, Judge Wynn, Senior Judge Traxler
Gold Courtroom (Room 348)
9:30 a.m.

Tuesday, December 5, 2023

[LISTEN](#)

Tuesday, December 5, 2023

20-1961 Dorothy Seabrook v. John Whitley (Dever)	Briefs	EMPLOYMENT: Whether plaintiff stated disparate punishment and hostile work environment claims based on racial discrimination or retaliation claim.
22-1114 SE Public Safety Grp, Inc. v. Randy Munn (Whitney)	Briefs	CIVIL: Whether district court erred in dismissing action based on sovereign immunity, concluding defendants were acting in official capacity; other issues.
22-1940 Carra Penegar v. Liberty Mutual Insurance (Conrad)	Briefs	CIVIL: Whether Plaintiff had a cognizable injury sufficient to establish Article III standing to bring a Medicare as Second Payer Act claim.
15-4548 US v. Paul Chance (Russell)	Briefs	CRIMINAL: Whether Chance's sentence for robbery and firearm convictions imposed after a significant upward variance is reasonable; other issues. 15 mins.

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

Tuesday, December 5, 2023

[LISTEN](#)

Wednesday, December 6, 2023

21-2010	Briefs	IMMIGRATION: Whether IJ's grant of asylum in prior proceeding is entitled to preclusive effect; other issues.
Saleh Shaiban v. Mark Koumans (Whitney)		
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22-2120	Briefs	CIVIL RIGHTS: Whether the district court erred by granting Defendant summary judgment on section 1983 and state law claims concerning officer's shooting of Plaintiff's dog.
Tina Ray v. Michael Roane (Dillon)		
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22-6748	Briefs	SENTENCING: Whether sentencing package doctrine applies to noncovered offense in First Step Act proceeding. 15 mins.
US v. Nathaniel Richardson, Jr. (Jackson)		
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22-1871	Briefs	TRADEMARK: Whether "being within such district" in 35 U.S.C. section 24 is satisfied by physical presence of statutory agent within judicial district; other issues.
Xactware Solutions, Inc. v. Buildxact (Trenga)		

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

Wednesday, December 6, 2023

[LISTEN](#)

Wednesday, December 6, 2023

21-2107 Gilfredo Lopez-Sorto v. Merrick Garland	Briefs	IMMIGRATION: Whether Board's reliance on Matter of J-F-F, 23 I&N Dec. 912 (A.G. 2006), contravenes this Court's decision in Rodriguez-Arias v. Whitaker.
22-1400 Krishna Poudel v. Mid Atlantic (Chuang)	Briefs	EMPLOYMENT: Whether Maryland wage laws provide a cause of action to individuals who have performed no work in Maryland; other issues.
22-1740 American Energy, LLC v. DOWCP	Briefs	BLACK LUNG: Whether ALJ relied too heavily on preamble to regulations in finding legal pneumoconiosis and improperly conflated issues of legal pneumoconiosis and disability causation. 15 mins.
22-1994 Medical Mutual Ins. Co. of NC v. Cathy Gnik (O'Grady)	Briefs	INSURANCE: Whether insured made material misrepresentation in application for medical professional liability insurance thereby relieving insurer of duty to defend or indemnify.

PANEL II
Judge Richardson, Judge Quattlebaum, Judge Benjamin
Butzner Courtroom 201
9:30 a.m.

Wednesday, December 6, 2023

[LISTEN](#)

Wednesday, December 6, 2023

21-1284 [Briefs](#)
Nagla Abdelhalim v. Aaron Lewis
(O'Grady)
Associations: 21-2405, 22-1035

CIVIL: Whether district court abused its discretion in awarding attorney's fees on finding that the plaintiff's action was "without foundation"; other issues.

22-4609 [Briefs](#)
US v. Randy Price
(Goodwin)

CRIMINAL: Whether conviction for possession of firearm with obliterated serial number violates Second Amendment following Supreme Court's decision in Bruen.

22-2082 [Briefs](#)
Anne Arundel County Maryland v. BP P.L.C.
(Gallagher)
Associations: 22-2101

CIVIL: In action asserting climate-deception claims, whether district court had jurisdiction based on federal officer removal or First Amendment federal question defense; other issues.

PANEL III
Judge Wynn, Judge Thacker, Judge Heytens
Blue Courtroom (Room 339)
9:30 a.m.

Wednesday, December 6, 2023

[**LISTEN**](#)

Wednesday, December 6, 2023

22-1690 SAS Associates 1, LLC v. City Council for the (Jackson)	Briefs	CONSTITUTIONAL LAW: Whether district court erred in finding that Plaintiffs failed to sufficiently plead comparators for a class-of-one claim under the Equal Protection Clause.
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22-4442 US v. Anthony Gross (Cogburn)	Briefs	CRIMINAL: Propriety of sentencing enhancement for serious bodily injury, USSG section 2A2.2(b)(3)(B), and cross-reference to aggravated assault Guideline, USSG section 2A2.2. 15 mins.
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22-7365 Edgardo Vasquez Castaneda v. Paul Perry (Giles)	Briefs	IMMIGRATION: Whether prolonged detention during withholding-only proceedings violates immigrant's due process rights, warranting habeas corpus relief.
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22-4405 US v. George Underwood (Childs)	Briefs	CRIMINAL: Sufficiency of evidence regarding federal program theft convictions; reasonableness of restitution award; other issues.
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Associations: 22-4428, 22-4429

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

Wednesday, December 6, 2023

[LISTEN](#)

Wednesday, December 6, 2023

22-4261 [Briefs](#) CRIMINAL: Whether district court erred in declining to suppress contents of electronic device searched pursuant to
US v. Eunice Nkongho border exception; challenges to Sentencing Guidelines calculations.
(Hazel)

22-4738 [Briefs](#) CRIMINAL: Whether jury venire was tainted by statements about the effects of drugs on venire members' lives; lay
US v. As-Samad Haynes witness testimony using summary chart; other issues.
(Jackson)

22-2211 [Briefs](#) TRADEMARK: Whether, to rebut presumption of abandonment, owner of common law mark produced adequate
Simply Wireless, Inc v. T-Mobile US, Inc evidence of intent to resume use; other issues.
(Trenga)
Associations: 22-2236

PANEL V
Chief Judge Diaz, Judge King, Judge Rushing
Tweed Courtroom (Room 414-D)
9:30 a.m.

Wednesday, December 6, 2023

[LISTEN](#)

Thursday, December 7, 2023

21-4357 [Briefs](#)
US v. Ricky Johnson
(Seymour)

SENTENCING: Whether the district court adequately addressed Johnson's mitigation arguments and, if not, whether the error was harmless. 15 mins.

22-2142 [Briefs](#)
David Duvall v. Novant Health, Inc.
(Cayer)

EMPLOYMENT: Challenges to jury's liability verdict and damages award in favor of white male executive who claimed he was a victim of corporate DEI plan.

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

Thursday, December 7, 2023

[LISTEN](#)

Thursday, December 7, 2023

22-2110	Briefs	CONSTITUTIONAL LAW: First Amendment challenge to state court policy restricting online access to case materials for non-attorneys.
Courthouse News Service v. Jacqueline Smith (Hudson)		

21-7325	Briefs	POSTCONVICTION: Whether district court abused its discretion in denying motion for compassionate release based on lack of extraordinary and compelling reasons; related issues.
US v. Antonio Davis (Doumar)		

23-1011	Briefs	CIVIL: Propriety of jurisdictional ruling based on court's finding that Plaintiffs failed to exhaust their administrative remedies prior to filing FTCA action; equitable tolling.
Estate of Eleusipa Van Emburgh v. US (Jackson)		

22-2227	Briefs	CIVIL: Whether claims alleging substandard mammograms are time-barred under West Virginia Professional Liability Act; other issues.
Elaine Neidig v. Valley Health System (Groh)		

PANEL II
Judge Gregory, Judge Wynn, Judge Rushing
Butzner Courtroom 201
9:30 a.m.

Thursday, December 7, 2023

[LISTEN](#)

Thursday, December 7, 2023

22-1678	Briefs	CIVIL: Whether foundation was proper defendant in action arising out of non-consensual medical experiments on foreign nationals conducted by foundation-affiliated doctor.
Estate of Arturo Giron Alvarez v. Rockefeller (Chuang)		
23-1151	Briefs	CIVIL: Whether adult rape victim is entitled to proceed pseudonymously; related issues.
Jane Doe v. Cenk Sidar (Hilton)		
Associations: 23-1177		
22-1643	Briefs	JURISDICTION. Whether the district court retained jurisdiction in class action to enforce the settlement agreement. Other issues.
Carla Kappel v. LL Flooring, Inc. (Trenga)		
22-1660	Briefs	CIVIL: Whether mobile home park's policy of screening adult residents for immigration status is a "business necessity" under the Fair Housing Act.
Jose Reyes v. Waples Mobile Home Park (O'Grady)		

PANEL III
Judge Wilkinson, Judge Heytens, Judge Hudson*
Blue Courtroom (Room 339)
9:30 a.m.

Thursday, December 7, 2023

[LISTEN](#)

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

Thursday, December 7, 2023

22-2271	Briefs	CIVIL: Whether Pullman abstention order is immediately appealable; other issues.
Scott Sonda v. West Virginia Oil & Gas (Bailey)		
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22-2145	Briefs	INSURANCE: Whether insured may recover attorney's fees under Hayseeds v. State Farm, 352 S.E.2d 73, if insured did not file a property damage action.
Kenneth Sellman v. Safeco Insurance (Bailey)		
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22-2281	Briefs	CIVIL: Challenge to grant of summary judgment based on qualified immunity in case arising out of officers' use of force.
Timothy Caraway v. City of Pineville (Whitney)		

PANEL IV
Chief Judge Diaz, Judge Niemeyer, Judge Alston*
Gold Courtroom (Room 348)
9:30 a.m.

Thursday, December 7, 2023

[LISTEN](#)

*Hon. Rossie D. Alston, Jr., United States District Judge, Eastern District of Virginia

Thursday, December 7, 2023

22-2268	Briefs	CIVIL: Whether district court erred in substituting the United States as defendant for claims arising from data breach at medical center.
Joann Ford v. Sandhills Medical Foundation, (Harwell)		

22-2175	Briefs	IMMIGRATION: Whether lawful permanent resident is eligible for naturalization despite being deemed inadmissible when reentering the country; related issues.
Raymond Azumah v. USCIS (Hilton)		

23-1309	Briefs	CIVIL: Whether court erred in applying residency requirement for standing to bring civil RICO action; challenge to grant of summary judgment before completion of discovery.
Percival Partners Limited v. Paa Nduom (Alston)		

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

Thursday, December 7, 2023

[LISTEN](#)

Friday, December 8, 2023

21-1043 Planned Parenthood Sth Atl v. Robert Kerr (Lewis)	Briefs	CIVIL RIGHTS: Whether law of the case doctrine precludes reconsidering interlocutory decision that Medicaid free-choice-of-provider provision creates private right of action; related issues.
22-4489 US v. Okello Chatrie (Lauck)	Briefs	CRIMINAL: Whether geofence warrant violated Fourth Amendment; whether district court properly denied motion to suppress under good faith exception.
22-4656 US v. Moises Zelaya-Veliz (Trenga)	Briefs	CRIMINAL: Whether Facebook warrants authorizing search of accounts for evidence of ongoing criminal activity were overbroad; sufficiency of evidence.
Associations: 22-4669, 22-4685, 22-4659, 22-4684, 22-4670		
22-4564 US v. Anthony Brown, Jr. (Gibney)	Briefs	CRIMINAL: Whether officers lacked reasonable, articulable suspicion to justify Terry stops of Brown and McCullers in violation of the Fourth Amendment; other issues.
Associations: 22-4565		

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

Friday, December 8, 2023

LISTEN

Friday, December 8, 2023

22-2294 [Briefs](#)
Lisa Kim v. Board of Education of Howard
(Chasanow)

CONSTITUTIONAL LAW: Whether election of student member of school board, in which only public school students can vote, violates First Amendment or Equal Protection Clause.

PANEL II
Chief Judge Diaz, Judge Quattlebaum, Judge Young*
Butzner Courtroom 201
8:30 a.m.

Friday, December 8, 2023

[LISTEN](#)

*Hon. Roderick C. Young, United States District Judge, Eastern District of Virginia

Friday, December 8, 2023

22-4696	Briefs	CRIMINAL: Whether interstate murder-for-hire when death results conviction is valid section 924(j) predicate after
US v. Jose Navarro-Cervellon		United States v. Taylor, 142 S. Ct. 2015 (2022); other issues.
(Xinis)		

23-1351	Briefs	CONSTITUTIONAL LAW: Whether county ordinance requiring licensed firearms dealers to display and distribute
Maryland Shall Issue, Inc. v. Anne Arundel		literature on suicide and conflict resolution violates the First Amendment.
(Gallagher)		

PANEL III
Judge Niemeyer, Judge Gregory, Judge Heytens
Blue Courtroom (Room 339)
8:30 a.m.

Friday, December 8, 2023

[LISTEN](#)

Friday, December 8, 2023

22-7188	Briefs	POSTCONVICTION: Whether president's decision to grant clemency must be communicated by signed clemency warrant; whether presidential communication clearly expressed clemency decision.
James Rosemond v. Richard Hudgins (Bailey)		

22-4447	Briefs	CRIMINAL: Whether the district court erred in denying defendant's motion to suppress evidence recovered from cell phones; other issues.
US v. Jerada Henderson (Jones)		

22-4595	Briefs	CRIMINAL: Whether jury instructions expanded the elements of the offense of failing to update sex offender registration; other issues.
US v. Jason Kokinda (Kleeh)		

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

Friday, December 8, 2023

[LISTEN](#)

Friday, December 8, 2023

22-2253	Briefs	ADMINISTRATIVE LAW: Whether principles of collateral estoppel apply in the Medicare administrative review process; other issues related to rejection of Plaintiff's collateral estoppel argument.
Vein & Wellness Group, LLC v. Xavier Becerra (Coulson)		

22-1766	Briefs	CIVIL: Propriety of district court's ruling that underlying agreement was a bareboat or demise charter, as opposed to a "time and voyage" charter; other issues.
Wilson Yachts, LLC v. James Atsriku (Rubin)		

Associations: 22-1768, 22-1769

PANEL V
Judge King, Judge Harris, Judge Alston*
Tweed Courtroom (Room 414-D)
8:30 a.m.

Friday, December 8, 2023

[LISTEN](#)

*Hon. Rossie D. Alston, Jr., United States District Judge, Eastern District of Virginia