

Tuesday, December 6, 2022

22-1844	Briefs	CONSTITUTIONAL LAW: Challenge to district court's refusal to enjoin grand jury proceedings related to statute which criminalizes derogatory speech about a political candidate.
Juliette Grimmett v. Nancy Freeman (Eagles)		
22-1147	Briefs	IMMIGRATION: Whether Va. Code Ann. 18.2-108 (Receiving, etc., stolen goods) is a crime involving moral turpitude.
Cesar Solis-Flores v. Merrick Garland		
21-2377	Briefs	IMMIGRATION: Whether former gang member, who agency found will likely be tortured in Honduras, failed to establish government acquiescence.
Jesus Ponce-Flores v. Merrick Garland		
21-4419	Briefs	CRIMINAL: Whether this Court has jurisdiction to review defendant's challenge to supervised release conditions reimposed following revocation; district court's authority to modify conditions.
US v. Joseph Castellano (Jackson)		

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

Tuesday, December 6, 2022

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21-2313	Briefs	CIVIL: Whether district court committed errors warranting new trial in 42 USC 1983 action against law enforcement officers involved in plaintiffs' wrongful convictions.
J. Gilliam v. Leroy Allen (Boyle)		

21-1978	Briefs	CONTRACT: Whether new terms in invoice became part of contract pursuant to Md. U.C.C. section 2-207 upon acceptance of delivery and payment; propriety of sanctions.
Bioiberica Nebraska, Inc. v. Nutramax (Gallagher)		

21-1255	Briefs	CONSTITUTIONAL LAW: Whether Maryland's ban on semiautomatic rifles as assault weapons violates Second Amendment; impact of New York State Rifle & Pistol Assn v. Bruen, 142 S. Ct. 2111 (2022).
Dominic Bianchi v. Brian Frosh (Bredar)		

22-1020	Briefs	CONSTITUTIONAL LAW: Whether district court properly denied qualified immunity to principal who allegedly failed to protect teacher from student with record of violent incidents.
Kimberly Burns-Fisher v. Anna Romero-Lehrer (Dever)		

PANEL II
Judge Niemeyer, Judge Thacker, Judge Richardson
Butzner Courtroom 201
9:30 a.m.

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21-4577	Briefs	SENTENCING: Whether district court erred in imposing condition of supervised release authorizing warrantless searches; whether defendant sufficiently preserved challenge.
US v. Roger Locklear (Dever)		

21-2238	Briefs	SECURITIES FRAUD: Whether district court erred in dismissing complaint finding Defendant had no duty to disclose and its statements were not actionable.
Employees' Retirement System v. Macrogenics (Hazel)		

21-2402	Briefs	CIVIL: Whether, for qualified immunity purposes, officer acted reasonably when shooting and killing person who was attempting to comply with officers' directions to produce firearm.
Deborah Franklin v. City of Charlotte (Mullen)		

21-2165	Briefs	CIVIL: Whether court erred in performing choice of law analysis and dismissing claim for lack of jurisdiction after verdict rendered and judgment entered for Plaintiff.
Malcolm Wiener v. AXA Equitable Life (Conrad)		

PANEL III
Chief Judge Gregory, Judge Wilkinson, Senior Judge Gibney*
Blue Courtroom (Room 339)
9:30 a.m.

Tuesday, December 6, 2022

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

Tuesday, December 6, 2022

22-1127	Briefs	BANKRUPTCY: Whether Bankruptcy Court lacked subject-matter jurisdiction to enjoin third-party litigation against non-debtor and its affiliates.
Bestwall LLC v. Official Committee of Asbestos (Conrad)		
Associations:	22-1135	

21-1207	Briefs	CIVIL: Standing to challenge automatic H-1B visa revocations; effectiveness of revocations after visas "ported" to new employers.
Karthikeyan Sakthivel v. Ur Jaddou (Currie)		

22-1264	Briefs	SOCIAL SECURITY: Whether the ALJ erred by declining to give substantial weight to Appellant's disability rating from the Department of Veterans Affairs; other issues. (15 mins. per side)
Shanette Rogers v. Kilolo Kijakazi (Conrad)		

PANEL IV
Gold Courtroom (Room 348)
Judge King, Judge Agee, Senior Judge Hudson*
9:30 a.m.

Tuesday, December 6, 2022

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

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21-2074	Briefs	IMMIGRATION: Propriety of agency's assessment of aggregate risk of future torture under Rodriguez-Arias v. Whitaker, 915 F.3d 968 (4th Cir. 2019).
Oneil Kerr v. Merrick Garland		

21-2357	Briefs	CIVIL: Whether district court correctly granted summary judgment to Plaintiff on strict products liability and contract claims; other issues.
Keralink International, Inc. v. Geri-Care		
(Blake)		

Associations: 21-2404

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

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Wednesday, December 7, 2022

22-1198 [Briefs](#) TORT: Challenge to grant of summary judgment in favor of media defendants in defamation case.
Don Blankenship v. NBCUniversal, LLC
(Copenhaver)
Associations: 22-1207

22-1326 [Briefs](#) TORT: Challenge to grant of summary judgment in favor of media defendants in defamation case.
Don Blankenship v. Boston Globe Media
(Copenhaver)

20-1680 [Briefs](#) CIVIL RIGHTS:Whether district court erred in granting Defendants qualified immunity when Defendants
James Schoonover v. Clay County Sheriff's Dept. allegedly handcuffed Plaintiff's wrist to his ankle; other issues.
(Copenhaver)

PANEL I
Chief Judge Gregory, Judge Niemeyer, Judge Giles*
Red Courtroom (Room 412)
8:30 a.m.

Wednesday, December 7, 2022

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*Hon. Patricia Tolliver Giles, United States District Judge, Eastern District of Virginia

Wednesday, December 7, 2022

22-1157	Briefs	SECURITIES: Whether a reasonable jury could find that defendant engaged in insider trading based on circumstantial evidence.
SEC v. Christopher Clark (Hilton)		

21-2385	Briefs	EMPLOYMENT: Whether district court erred in granting university's motion to dismiss doctoral student's Title VI and VII discrimination and retaliation claims.
Andreas Alberti v. Rector and Visitors of UVA (Moon)		

21-2144	Briefs	CLASS ACTION: Propriety of district court's dismissal for failure to state a claim for violation of S.C. Code Ann. section 37-20-180(A)(4); other issue.
Brady O'Leary v. TrustedID, Inc. (Lydon)		

21-4283	Briefs	CRIMINAL: Whether information supporting probable cause determination was stale; whether district court abused its discretion in admitting sexually explicit evidence involving 18-year-old.
US v. William Ebert (Whitney)		

PANEL II
Judge Agee, Judge Diaz, Judge Quattlebaum
Butzner Courtroom 201
9:30 a.m.

Wednesday, December 7, 2022

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20-2117	Briefs	IMMIGRATION: Whether petitioner's removability admission at removal hearing bars argument to the contrary upon Motion to Reopen; whether single paraphernalia possession conviction renders petitioner removable.
Osman Jalloh v. Merrick Garland		

21-6658	Briefs	POSTCONVICTION: Whether the district court erred by holding that challenged 18 U.S.C. section 924(c) conviction was based on predicate offense of bank robbery, rather than Hobbs Act conspiracy.
US v. Carlos McClammy (Hudson)		

22-1110	Briefs	CIVIL: Whether district court erred in granting motion to compel compliance with consent decree related to environmental laws.
US v. Southern Coal Corporation (Urbanski)		

21-2418	Briefs	IMMIGRATION: Whether conviction for identity theft under Md. Code. Ann., Crim Law section 8-301(c) is categorically a crime involving moral turpitude.
Julio Sosa Uvalle v. Merrick Garland		

PANEL III
Judge Wilkinson, Judge Rushing, Senior Judge Floyd
Blue Courtroom (Room 339)
9:30 a.m.

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22-1175	Briefs	CONSTITUTIONAL LAW: Challenge to South Carolina constitutional provision prohibiting the use of public funds for religious or private educational institutions.
Bishop of Charleston v. Marcia Adams (Hendricks)		

22-1104	Briefs	CIVIL: Whether attorney fee shifting statute, N.C. section 6-21.2(2), was consistent with parties' contract and was properly treated as a mandate or instead was a cap; other issues.
Colorado Bankers Life v. Academy Financial (Dever)		

PANEL IV
Judge Thacker, Judge Harris, Judge Heytens
Gold Courtroom (Room 348)
9:30 a.m.

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21-4413 US v. Christopher Sueiro (Alston)	Briefs	CRIMINAL: Whether search warrant was unconstitutionally overbroad and lacked probable cause; whether any invalid portion was severable; whether good faith exception applied; other issues.
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21-1979 Amanda Mingo v. City of Durham (Eagles)	Briefs	CIVIL: Whether governmental immunity precludes suit against city for failure to maintain railroad crossing.
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21-2223 Azucena Zamorano Aleman v. City of Charlotte (Conrad)	Briefs	CIVIL: Propriety of summary judgment to police defendants where decedent called police to surrender gun and was not brandishing gun when officer shot him.
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21-2267 Benjamin Reetz v. Aon Hewitt Investment (Bell)	Briefs	ERISA: Whether the district court erred in finding Appellee did not breach fiduciary duties of loyalty and prudence.
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PANEL V
Judge King, Judge Richardson, Senior Judge Keenan
Tweed Courtroom (Room 414-D)
9:30 a.m.

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Thursday, December 8, 2022

20-7250	Briefs	CIVIL RIGHTS: Whether district court erred in prospectively assessing a strike under 28 U.S.C. section 1915(g); other issues.
Kevin Pitts v. State of South Carolina (Anderson)		

21-1771	Briefs	CIVIL RIGHTS: Whether district court erred in finding plaintiff's claims barred by statute of limitations.
Jane Doe-2 v. Sheriff of Richland County (Currie)		

21-2309	Briefs	SECURITIES FRAUD: Whether plaintiff sufficiently pleaded scienter for securities-fraud claim under sec. 10(b) and materiality for proxy-based claim under sec. 14(a).
San Antonio Fire & Police Pension v. Syneos (Flanagan)		

21-4351	Briefs	CRIMINAL: Whether Appellant's argument regarding judicial vindictiveness on resentencing falls within the scope of the appellate waiver contained in the plea agreement; other issues.
US v. Christopher Singletary (Dever)		

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

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* Hon. Patricia Tolliver Giles, United States District Judge, Eastern District of Virginia

Thursday, December 8, 2022

21-1691	Briefs	ARBITRATION: Whether district court erred in denying arbitration.
Berkeley County School District v. HUB (Norton)		
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20-7083	Briefs	POSTCONVICTION: Whether trial counsel rendered ineffective assistance by failing to obtain and present mitigation evidence, and object to the Commonwealth's use of Coleman's juvenile criminal history.
Christopher Coleman v. Harold Clarke (Moon)		
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22-1059	Briefs	BANKRUPTCY: Whether appellant lacked standing to move to reopen bankruptcy proceedings.
Martin Conway v. Smith Development, Inc. (O'Grady)		
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22-1495	Briefs	CIVIL: Challenge to district court's order enforcing terms of parties' settlement agreement.
Wudi Industrial (Shanghai) Co., v. Wai Wong (Hilton)		

Associations: 22-1662

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

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21-2406	Briefs	ERISA: Whether insured's mental/physical incapacity equitably tolled the period for converting his coverage;
Kathy Hayes v. Prudential Insurance Company		other issues.
(Dawson)		

21-4612	Briefs	CRIMINAL: Whether court correctly concluded Defendant failed to "participate" in sex-offender treatment
US v. Marshall Cohen		program; other issues.
(Hendricks)		

21-2171	Briefs	CIVIL RIGHTS: Whether district court erred in finding that warrant affidavit supported probable cause and
Kristen Decina v. Horry County Police		that qualified immunity applied in malicious prosecution claim; other issues.
(Dawson)		

21-1721	Briefs	JURISDICTION: Whether district court erred in finding personal jurisdiction over appellant, declining to
Dmarcian, Inc. v. Dmarcian Europe BV		dismiss for forum non conveniens; other issues.
(Reidinger)		

Associations: 21-2005, 22-1728

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

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

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20-6906	Briefs	POSTCONVICTION: Whether counsel rendered ineffective assistance by failing to object to the sentencing court's treatment of a prior conviction as a career offender predicate.
US v. Germaine Cannady (Bennett)		

21-2031	Briefs	CIVIL: Whether district court erred in granting summary judgment on action arising out of lease reassignment dispute between franchisor and franchisee; other claims.
JTH Tax, LLC v. Bablu Shahabuddin (Smith)		

21-1823	Briefs	TRADEMARK: Whether 1997 registration of domain name constituted "registration" under Anti-cybersquatting Consumer Protection Act; other issues.
The Prudential Ins. Co. v. Shenzhen Stone (Ellis)		

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

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21-4257	Briefs	CRIMINAL: Whether police officer lacked reasonable suspicion to seize Blount and search vehicle in violation of the Fourth Amendment.
US v. Emmanuel Blount (Cogburn)		

22-1187	Briefs	SOCIAL SECURITY: Propriety of Rule 12(b)(1) dismissal of class action complaint based on appellant's failure to exhaust administrative remedies; other issues.
L.N.P. v. Kilolo Kijakazi (Nachmanoff)		

22-1168	Briefs	CONSTITUTIONAL LAW: First Amendment and Equal Protection challenges to school district's social justice program and bias incident reporting system.
Patti Menders v. Loudoun County School Board (Trenga)		

21-1661	Briefs	IMMIGRATION: Whether agency's denial of I-140 Immigrant Petition for Alien Worker reflects an abuse of discretion, or was arbitrary, capricious, or contrary to the law.
Chuncheng Ren v. USCIS (Young)		

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

Thursday, December 8, 2022

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Friday, December 9, 2022

21-1713 [Briefs](#) CIVIL: Whether district court properly determined accrual date of plaintiff's Takings Clause claims.
Epcon Homestead, LLC v. Town of Chapel Hill
(Tilley)

22-1041 [Briefs](#) TRADEMARK: Whether the district court properly granted Appellees summary judgment on Appellants' 15
Interprofession du Gruyere v. U.S. Dairy Export U.S.C. section 1071(b) claim.
(Ellis)

18-4296 [Briefs](#) CRIMINAL: Whether the district court erred by denying Appellant's motion to suppress witnesses'
US v. Demarcus Ivey identification testimony; other issues.
(Cogburn)
Associations: 18-4297

20-2279 [Briefs](#) IMMIGRATION: Whether Petitioners exhausted their challenge to corroboration ruling; whether proposed
Maria Gonzalez-Lemus v. Merrick Garland particular social group -- single women unwilling to make extortion payments to gangs -- is cognizable.

PANEL I
Chief Judge Gregory, Judge Thacker, Judge Rushing
Red Courtroom (Room 412)
8:30 a.m.

Friday, December 9, 2022

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Friday, December 9, 2022

21-4605 US v. Cassity Jones (Cogburn)	Briefs	CRIMINAL: Whether district court erred in applying the safety-valve statute, 18 U.S.C. section 3553(f), and sentencing defendant below the otherwise applicable statutory mandatory minimum.
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22-1103 No Mid-Currituck Bridge v. North Carolina (Flanagan)	Briefs	CIVIL: Whether district court erred finding supplemental EIS was not required based on changed circumstances related to proposed toll bridge; related issues.
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PANEL II
Judge Agee, Judge Diaz, Judge Harris
Butzner Courtroom 201
8:30 a.m.

Friday, December 9, 2022

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19-4178 [Briefs](#)
US v. George Fowler
(Cain)

SENTENCING: Whether district court plainly erred in calculating defendant's criminal history score and adequately addressed defendant's nonfrivolous arguments for downward departure or variance.

19-4725 [Briefs](#)
US v. Jason Dix
(Childs)

SENTENCING: Whether district court erred in applying USSG section 2K2.1(b)(6)(B) enhancement based on defendant's possession of firearm while failing to stop for police; other issues.

22-1119 [Briefs](#)
Career Counseling, Inc. v. Amerifactors
(Childs)

CLASS ACTION: Challenge to denial of class certification; cross-appeal challenge to grant of summary judgment.

Associations: 22-1136

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

Friday, December 9, 2022

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Friday, December 9, 2022

21-4559	Briefs	CRIMINAL: Whether admission, in criminal proceeding, of defendant's response to probation regarding his possession of child pornography on supervised release violated Fifth Amendment right against self-incrimination.
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21-2207	Briefs	ERISA: Whether Plaintiff stated claims for relief under 29 U.S.C. section 1132(a)(1)(B), (a)(3); other issues.
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21-4654	Briefs	SENTENCING: Whether district court committed procedural error or violated Defendant's right to due process at sentencing; related issues.
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20-1910	Briefs	CIVIL: Whether statute of limitations period was permanently tolled upon filing of motion to proceed in forma pauperis.

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

Friday, December 9, 2022

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