

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
Richmond, VA (12/7/2021 - 12/10/2021 Session)

Tuesday, December 7, 2021

Attorney Check-in Room 101 (Library): First Case: 9:00 am
Second Case: 9:30 am
Third Case: 10:00 am
Fourth Case: 10:30 am

REVD 11/23/21

21-4101 [Briefs](#) CRIMINAL: Whether conditional guilty plea should be vacated on the basis that preserved appellate issue is not case dispositive;
US v. Anthony Buster other issues.
(Gibney)

20-6848 [Briefs](#) CIVIL: Whether PLRA applicant must demonstrate that favorable judicial outcome would redress alleged imminent danger of
Marc Hall v. US injury.
(Bailey)

19-7497 [Briefs](#) CONSTITUTIONAL LAW: Whether jail violated Free Exercise Clause by not providing Friday Muslim prayer services; whether jail
David Firewalker-Fields v. Jack Lee violated Establishment Clause by broadcasting Sunday Christian services.
(Moon)

20-1060 [Briefs](#) SOCIAL SECURITY: Whether ALJ violated the treating physician rule; whether ALJ's residual functional capacity finding
Vance Caulkins v. Kilolo Kijakazi adequately incorporated claimant's mental impairments; other issues. 15-minutes.
(Bell)

PANEL I
Red Courtroom (Room 412)
9:30 a.m.

Tuesday, December 7, 2021

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20-1452 [Briefs](#) INSURANCE: Whether district court erred by ruling that Employee Indemnification and Employer's Liability exclusion in insurance contract operated to exclude coverage above state's mandatory minimum limits.
United Financial Casualty Co. v. Greg Ball
(Chambers)

19-7611 [Briefs](#) CIVIL RIGHTS: Exclusion of evidence in jury trial; grant of judgment as a matter of law on inmate's due process and deliberate indifference claims.
James Moskos v. James Hardee
(Boyle)

20-4584 [Briefs](#) CRIMINAL: Whether the district court erroneously applied an abuse-of-trust enhancement in sentencing on convictions for making false statements; other issues.
US v. Teresa Barringer
(Jones)

PANEL II
Butzner Courtroom 201
9:30 a.m.

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20-1630 [Briefs](#) INSURANCE: Whether district court erred in issuing final approval order of settlement agreement.
1988 Trust For Allen Children v. Banner Life
(Bennett)

19-7795 [Briefs](#) SENTENCING: Whether district court erred by failing to give defendant notice of negative information considered in imposing First
US v. John Jackson Step Act sentence; other issues.
(Chambers)

20-1854 [Briefs](#) IMMIGRATION: Whether this Court has jurisdiction to review alleged legal errors underlying the denial of sua sponte reopening;
Damien Williams v. Merrick Garland related issues.

PANEL III
Gold Courtroom (Room 348)
9:30 a.m.

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Tuesday, December 7, 2021

Attorney Check-in Room 101 (Library): First Case: 1:30 pm
Second Case: 2:00 pm
Third Case: 2:30 pm
Fourth Case: 3:00 pm

20-0013 [Briefs](#) CAPITAL: Whether appellant was required to prove actual or implicit bias to establish his McDonough claim; whether appellant proved actual bias.
Thomas Porter v. Rick White
(Hudson)

20-2266 [Briefs](#) CONSTITUTIONAL LAW: Whether appellant has standing to allege First Amendment violation based on Maryland Governor's executive order prohibiting boycotts of Israel.
Saqib Ali v. Lawrence Hogan, Jr.
(Blake)

21-1209 [Briefs](#) CIVIL RIGHTS: Whether plaintiff is a prevailing party under 42 U.S.C. section 1988; other issues.
Kenneth Grabarczyk v. Joshua Stein
(Boyle)

20-2226 [Briefs](#) SOCIAL SECURITY: Whether the district court abused its discretion by remanding case for further administrative proceedings rather than reversing and remanding for calculation of benefits.
Travis Carr v. Kilolo Kijakazi
(Hazel)

PANEL IV
Red Courtroom (Room 412)
2:00 p.m.

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Attorney Check-in Room 101 (Library): First Case: 1:30 pm
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21-4104 [Briefs](#) CRIMINAL: Whether evidence was sufficient to convict appellant of transferring firearms to an out-of-state entity under 18 U.S.C. section 922(a)(5); related issues.
US v. Jacques Duroseau
(Dever)

20-4500 [Briefs](#) SENTENCING: Whether USSG section 2K2.1(b)(6)(B) enhancement for use of firearm in connection with another felony offense was appropriate; other issues.
US v. Donta Oliver
(Whitney)

20-1849 [Briefs](#) IMMIGRATION: Whether substantial evidence supports the finding that persecution was not on account of membership in a particular social group.
Veronica Toledo-Vasquez v. Merrick Garland

PANEL V
Butzner Courtroom 201
2:00 p.m.

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Attorney Check-in Room 101 (Library): First Case: 9:00 am
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21-1614 [Briefs](#) CLASS ACTION: Whether district court erred in declining to enforce class action settlement by enjoining state court proceedings under All Writs Act.
Marcus Huey v. Equitable Production Company
(Goodwin)

20-1588 [Briefs](#) ERISA: Whether district court erred in finding, on summary judgment, that insurance company had not abused its discretion in denying plaintiff's claims of neurocognitive disability.
Robin Thomas v. Aetna Life Insurance Company
(Hilton)

20-4470 [Briefs](#) CRIMINAL: Whether the district court correctly instructed the jury on "official act" requirement for prosecution of honest services fraud conspiracy and bribery; other issues.
US v. Greg Lindberg
(Cogburn)
Associations: 20-4473

19-4904 [Briefs](#) CRIMINAL: Whether the district court erred in denying defendant's motion to suppress firearm seized during an encounter with the police.
US v. Anthony Peters
(Hudson)

PANEL I
Red Courtroom (Room 412)
9:30 a.m.

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20-2359 [Briefs](#) CIVIL: Whether mortgage loan servicer's collection of convenience fees for online payments violates Maryland debt collection and
Ashly Alexander v. Carrington Mortgage Services consumer protection statutes; related issues.
(Bennett)

21-4022 [Briefs](#) CRIMINAL: Whether supervised release condition prohibiting unsupervised contact with children without probation officer's
US v. Robert Black approval is overbroad and improper delegation of judicial power; other issues.
(Norton)

19-2315 [Briefs](#) IMMIGRATION: Propriety of the basis for the agency's ruling that Petitioner failed to satisfy the nexus element of her asylum and
Catherine Reyes-Espinoza v. Merrick Garland withholding of removal claims.

20-1969 [Briefs](#) IMMIGRATION: Whether applicant established a nexus between her persecution and membership in her nuclear family.
Carolina Castillo Rabanales v. Merrick Garland

PANEL II
Butzner Courtroom 201
9:30 a.m.

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20-2310 [Briefs](#) EMPLOYMENT: Whether district court erred in dismissing Plaintiff's retaliation claim and hostile work environment claim
Laverne McIver v. Bridgestone Americas, Inc. alleging employer failed to address hanging of nooses and monkeys on plant equipment or offensive graffiti.
(Howard)

20-2174 [Briefs](#) CIVIL: Whether the district court erred in determining plaintiff failed to come forward with comparator evidence in support of
Wendell Tabb v. Bd of Ed Durham Pub Schools racial discrimination claims; other issues.
(Osteen)

20-1801 [Briefs](#) EMPLOYMENT: Whether plaintiff's admissions in his complaint and deposition precluded finding him qualified individual with
Jeffrey Jessup v. Barnes Group, Inc. disability under ADA; whether plaintiff demonstrated hostile work environment.
(Herlong)

20-1192 [Briefs](#) IMMIGRATION: Whether the Petitioner abandoned her asylum application when she did not have her fingerprints taken in a
Katherin Mejia-Velasquez v. Merrick Garland timely fashion; related issues.

Associations: 20-1628

PANEL III
Gold Courtroom (Room 348)
9:30 a.m.

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Attorney Check-in Room 101 (Library): First Case: 1:30 pm
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20-1685 [Briefs](#) BANKRUPTCY: Whether tax penalties are avoidable as incurred without a reasonably equivalent value and constructively fraudulent transfers.
Richard Cook v. US
(Myers)

20-2044 [Briefs](#) ERISA: Whether district court erroneously determined that Appellant failed to exhaust administrative remedies for the denial of coverage for services rendered; other issues.
Kenneth Wilson v. UnitedHealthcare Insurance
(Norton)

18-4831 [Briefs](#) SENTENCING: Whether prior S.C. Youthful Offender Act offense is Guidelines crime of violence; assumed error harmless under plain error review; impact of Rehaif on conviction.
US v. Dominicus Sitton
(Hendricks)

PANEL IV
Red Courtroom (Room 412)
2:00 p.m.

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20-4303 US v. Travis Skaggs (Jones)	Briefs	CRIMINAL: Whether Virginia conviction for distributing schedule III controlled substance qualifies as a serious drug felony under 21 U.S.C. section 802(57); waiver issue.
19-4761 US v. Joel Smithers (Jones)	Briefs	CRIMINAL: Whether sufficient evidence supports each of the defendant's 859 convictions for unlawful distribution of a controlled substance; other issues.
20-4475 US v. Kendall Wysinger (Dillon)	Briefs	CRIMINAL: Whether preying on victims' drug addiction amounted to coercion to support conviction for sex-trafficking conspiracy under 18 U.S.C. section 1594(c); other issues.
21-1311 Uncork and Create LLC v. The Cincinnati (Berger)	Briefs	INSURANCE: Whether, under West Virginia law, business's COVID-related losses qualify as covered physical loss or physical damage under commercial property insurance policy.

PANEL V
Butzner Courtroom 201
2:00 p.m.

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Thursday, December 9, 2021

Attorney Check-in Room 101 (Library): First Case: 9:00 am
Second Case: 9:30 am
Third Case: 10:00 am

21-1449 [Briefs](#) CONTRACT: Whether county waived governmental immunity by either entering into a contract with appellant or acting in a proprietary capacity; related issues.
Southern Power Company v. Cleveland County
(Reidinger)

21-1248 [Briefs](#) EMPLOYMENT: Whether employer had requisite cause under the ADA to require employee to produce medical records beyond those that had already been produced.
Michael Coffey, Jr. v. Norfolk Southern Railway
(Allen)

21-4015 [Briefs](#) SENTENCING: Whether a district court must expressly identify at sentencing which "standard" conditions of supervised release are imposed; other issues.
US v. Antonio Fisher
(Dever)

PANEL I
Red Courtroom (Room 412)
9:30 a.m.

Thursday, December 9, 2021

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Thursday, December 9, 2021

Attorney Check-in Room 101 (Library): First Case: 9:00 am
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20-4172 [Briefs](#) CRIMINAL: Whether district court's instructions constructively amended indictment on counts 10 and 11; propriety of admission of Facebook records; other issues.
US v. Omar Banks
(Jones)

Associations: 20-4173

20-7028 [Briefs](#) HABEAS: Whether petitioner's removal in violation of stay constituted extreme circumstance warranting exception to 28 U.S.C. section 2241's in custody requirement; other issues.
Yeison Ortiz v. Alejandro Mayorkas
(Hollander)

20-7709 [Briefs](#) POSTCONVICTION: Whether the district court properly denied motions for compassionate release under 18 U.S.C. section 3582(c)(1)(A).
US v. Terrell Hargrove
(Gibney)

Associations: 20-7726

PANEL II
Butzner Courtroom 201
9:30 a.m.

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Fourth Case: 10:30 am

21-6488 [Briefs](#) SENTENCING: Whether district court erred in concluding that defendant's Type 2 diabetes and hypertension did not constitute an extraordinary and compelling reason for compassionate release.
US v. Nathan Petway
(Myers)

20-2361 [Briefs](#) 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, Inc.
(Reidinger)

21-7089 [Briefs](#) POSTCONVICTION: Whether district court erred in vacating appellant's convictions under 18 USC sections 924(c) and 924(o).
US v. Mohamed Said
(Jackson)

19-4419 [Briefs](#) CRIMINAL: Whether exigent circumstances excused law enforcement from obtaining a warrant prior to "pinging" suspect's cellphone; related issues.
US v. Erick Hobbs
(Chasanow)

PANEL III
Gold Courtroom (Room 348)
9:30 a.m.

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Attorney Check-in Room 101 (Library): First Case: 1:30 pm
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20-2344 [Briefs](#) CONTRACT: Whether "commercial use" is a prerequisite for the award of royalty damages under the Maryland Uniform Trade
AirFacts, Inc. v. Diego De Amezaga Secrets Act; other issues.
(Chasanow)

20-4262 [Briefs](#) SENTENCING: Propriety of district court's relevant conduct determination, pursuant to USSG section 1B1.3(a)(2) & cmt. n.5(B)(ii),
US v. Justice McDonald as relative to defendant's 18 U.S.C. section 922(g) conviction.
(Osteen)

20-4594 [Briefs](#) SENTENCING: Whether district court procedurally erred by acknowledging its consideration of - but not actually explaining
US v. John Geiger reasons for rejecting - defendant's nonfrivolous arguments for lower revocation sentence.
(Seymour)

PANEL IV
Red Courtroom (Room 412)
2:00 p.m.

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20-1576 [Briefs](#) IMMIGRATION: Whether substantial evidence supports the agency's denial of protection under the Convention Against Torture.
Miguel Ibarra Chevez v. Merrick Garland

20-1636 [Briefs](#) CIVIL: Propriety of district court's determination that defamation claims under North Carolina law failed for lack of a false statement.
Barbara Robinson v. John Williams
(Flanagan)

19-4812 [Briefs](#) CRIMINAL: Whether statements obtained prior to the issuance of a Miranda warning are admissible at suppression hearings; other Fourth Amendment issues.
US v. Derrick Daniels, Jr.
(Conrad)

20-4019 [Briefs](#) CRIMINAL: Whether extraterritorial use of wire fraud statutes requires only use of wires domestically and not a further domestic scheme or plan; loss attributed to overseas victims in calculating sentence; other issues.
US v. Lee Elbaz
(Chuang)

PANEL V
Butzner Courtroom 201
2:00 p.m.

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Thursday, December 9, 2021

Attorney Check-in Room 101 (Library): First Case: 2:00 pm

21-2070 [Briefs](#)
Disability Rights SC v. Henry McMaster
(Lewis)

CIVIL: Challenge to preliminary injunction entered against South Carolina budget proviso that prohibits school district from using appropriates or authorized funds to announce or enforce a mask mandate in schools.

PANEL VI
Gold Courtroom (Room 348)
2:30 p.m.

Thursday, December 9, 2021

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
Richmond, VA (12/7/2021 - 12/10/2021 Session)

Friday, December 10, 2021

Attorney Check-in Room 101 (Library): 8:30 am

20-1001 [Briefs](#)
Bonnie Peltier v. Charter Day School, Inc.
(Howard)
Associations: 20-1023

REHEARING EN BANC

Butzner En Banc Courtroom 201
9:00 a.m.

Friday, December 10, 2021

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