

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (12/10/2019 - 12/12/2019 Session)
Tuesday, December 10, 2019

17-0007 [Briefs](#)
In re: Timothy Richardson

HABEAS: If court finds Rule 60(b)(6) motion to be a successive habeas petition, should it authorize filing of petition.

18-2366 [Briefs](#)
Gunvor SA v. Arman Kayablian
(Brinkema)

CIVIL PROCEDURE: Whether district court abused its discretion in concluding that nondiverse nonparty was necessary and indispensable pursuant to Fed. R. Civ. P. 19.

18-2096 [Briefs](#)
Margaret Shinaberry v. Andrew Saul
(Gallagher)

SOCIAL SECURITY: Whether ALJ correctly considered moderate limitations in concentration, persistence, and pace in the residual functional capacity. 15 mins. per side

18-4312 [Briefs](#)
US v. Gerald Johnson
(Bredar)
Associations: 18-4333

CRIMINAL: Whether jury tampering claim entitled Defendants to Remmer hearing.

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

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18-4575 [Briefs](#)
US v. James Arbaugh
(Dillon)

SENTENCING: Whether the district court properly applied a two-level enhancement for undue influence under USSG section 2G1.3(b)(2)(B); other issues.

18-1890 [Briefs](#)
Walton Campbell v. Mark Esper
(Hilton)

EMPLOYMENT: Whether district court lacked subject matter jurisdiction over plaintiff's claims under Dept of Navy v. Egan, 484 U.S. 518 (1988); other issues.

18-7295 [Briefs](#)
Kervinton Valentino v. Harold Clarke
(Trenga)

HABEAS: Whether state court's determination that counsel was not ineffective for failing to obtain forensic testing was reasonable.

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

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18-1954 [Briefs](#) CIVIL RIGHTS: Appeal from denial of qualified immunity to defendants on false arrest and malicious prosecution claims based on finding of no probable cause for arrest.
Gregory Robinson v. S.W. Miller
(Johnston)

18-4585 [Briefs](#) SENTENCING: Whether court committed reversible procedural errors in departing upward for underrepresentation of criminal history; whether court adequately explained sentence; whether sentence is substantively reasonable.
US v. Larry Nance
(Flanagan)

18-2454 [Briefs](#) CIVIL: Whether a private arbitration panel falls within the definition of "foreign or international tribunal" contained in 28 U.S.C. section 1782.
Servotronics, Inc. v. The Boeing Company
(Norton)

18-4823 [Briefs](#) CRIMINAL: Whether sufficient evidence supported Ath's convictions.
US v. Sean Ath
(Cain)

PANEL III
Blue Courtroom (Room 339)
9:30 a.m.

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18-4755 [Briefs](#) SENTENCING: Whether district court erred in considering, under the 18 U.S.C. section 3553(a) (2012) factors, good
US v. John Fowler time credits defendant might receive in imposing the sentence.
(Bennett)

18-2312 [Briefs](#) CIVIL: Whether allegation of imminent danger of serious physical injury under 28 U.S.C. section 1915(g) (2012)
David Meyers v. Commissioner of SSA must have a nexus to claims in the complaint.
(Hollander)
Associations: 18-7417

18-2043 [Briefs](#) EMPLOYMENT: Whether district court erred in determining Appellant failed to establish pretext on
Fay Cole v. Family Dollar Stores of MD discrimination and retaliation claims; other issues.
(Xinis)

18-4424 [Briefs](#) CRIMINAL: Whether the district court erred by not ordering a competency hearing sua sponte.
US v. Ronald McKnight
(Conrad)

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

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18-6906 [Briefs](#) POST-CONVICTION: Whether section 2255 motion was timely filed.
US v. Mario Salas
(Hudson)

17-4778 [Briefs](#) SENTENCING: Whether Texas burglary qualifies as an aggravated felony and a crime of violence.
US v. Roberto Moreno Pena
(Duffy)

18-4673 [Briefs](#) CRIMINAL: Fourth Amendment issue arising from search of laptop; other issues.
US v. Robert Fall
(Morgan)

19-4017 [Briefs](#) CRIMINAL: Whether stipulating to facts at bench trial moots for appeal pretrial suppression issues; other issues.
US v. John Morgan
(Lauck)

Associations: 19-4018

PANEL V
Tweed Courtroom (Room 414-D)
9:30 a.m.

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18-0008 [Briefs](#) HABEAS: Challenge to state capital conviction and sentence based on ineffective assistance of counsel.
Freddie Owens v. Bryan Stirling
(Wooten)

18-2326 [Briefs](#) CIVIL: Whether claim for civil penalties under Federal Power Act accrued, under 28 U.S.C. section 2462, at time of
FERC v. Powhatan Energy Fund, LLC
(Lauck)

18-2415 [Briefs](#) SECURITIES FRAUD: Whether class action complaint plausibly alleged scienter based on false or misleading
Charles Janies v. Cempra, Inc.
(Schroeder)

18-2437 [Briefs](#) CIVIL: Propriety of grant of sovereign immunity on plaintiff's claim seeking reinstatement to former position
Ray Biggs v. NC Dept of Public Safety
(Boyle)

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

Wednesday, December 11, 2019

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19-1644 [Briefs](#) JURISDICTION: Appeal from order remanding City's climate-change action against oil and gas companies to state
Mayor and City Council of Balt v. BP P.L.C. court.
(Hollander)

18-4578 [Briefs](#) SENTENCING: Whether district court erred in applying four-level enhancement under U.S. Sentencing Guidelines
US v. Michael Gary Manual section 2K2.1(b)(6)(B) for possession of firearm in connection with another felony.
(Anderson)

18-4525 [Briefs](#) SENTENCING: Whether New York attempted first-degree assault qualifies as a crime of violence under the
US v. Jerome Collins Guidelines; whether plain error review applies.
(Conrad)

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

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18-4201 [Briefs](#) CRIMINAL: Whether sufficient evidence supports convictions for sending threatening communications; whether
US v. William Davis, Jr. Virginia General District Court sentence on appeal can receive a criminal history point; other issues.
(Britt)

18-2083 [Briefs](#) CIVIL: Whether district court erred in applying wrong causation standard on FMLA retaliation claim in granting
Arlene Fry v. Rand Construction Corporation Employer's motion for judgment as a matter of law.
(Trenga)

19-4412 [Briefs](#) CRIMINAL: Whether district court erred in finding at resentencing that defendant was an armed career criminal
US v. Clinton Rumley based on prior offense that was not identified in original presentence report; other issues.
(Kiser)

PANEL III
Blue Courtroom (Room 339)
9:30 a.m.

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18-1661 [Briefs](#) CIVIL: Whether district court erred in granting summary judgment in favor of defendant on employment
Phillip Faulconer v. Centra Health, Inc. discrimination claims; related issues.
(Moon)

18-4829 [Briefs](#) CRIMINAL: Whether appeal of district court's order denying motion to modify supervised release conditions falls
US v. Ronald Boone, Sr. within the scope of a general appellate waiver; other issues.
(Morgan)

18-4703 [Briefs](#) CRIMINAL: Whether stop of commercial truck on road in federal park was supported by reasonable suspicion;
US v. Jaison R. Feliciano other issues.
(Trenga)

17-4184 [Briefs](#) CRIMINAL: Propriety of district court's denial of motion to suppress evidence from Maryland state wiretaps;
US v. Olden Minnick other issues.
(Chuang)

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

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19-1220 [Briefs](#)
Robel Bing v. Brivo Systems, LLC
(Xinis)

CIVIL: Whether appeal is interlocutory under *Goode v. Cent. Va. Legal Aid Soc'y, Inc.*, 807 F.3d 619 (4th Cir. 2015); whether district court erred in dismissing complaint.

18-2030 [Briefs](#)
Anthony Fidrych v. Marriott International
(Hendricks)

CIVIL: Whether district court applied incorrect standard of review in setting aside entry of default judgment; additional issues regarding personal jurisdiction over hotel corporation, sanctions.

PANEL V
Tweed Courtroom (Room 414-D)
9:30 a.m.

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18-2486 [Briefs](#)
In re: Donald Trump

REHEARING EN BANC

18-2488 [Briefs](#)
District of Columbia v. Donald Trump
(Messitte)

REHEARING EN BANC

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

Thursday, December 12, 2019