
22-2010 [Briefs](#)
Loretta Marshall v. Georgetown Memorial
(Gergel)

ARBITRATION: Whether applicant agreed to arbitrate in 2020 when employer's online system prepopulated a checkmark next to "I Accept" based on applicant's prior employment application from 2016.

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Judge King, Judge Gregory, Judge Harris
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23-1344	Briefs	CIVIL RIGHTS: Whether district court erred in denying officer qualified immunity related to officer's actions in responding to a vehicle repossession in progress.
Leslie Atkinson v. Brent Godfrey (Osteen)		
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22-1287	Briefs	EMPLOYMENT: Whether court erroneously determined that no genuine issue of material fact existed as to whether Defendant disciplined Plaintiff because of protected activity; other issues.
Peter Massaro v. Fairfax County (Ellis)		
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21-1247	Briefs	IDEA: Propriety of ALJ's decisions regarding students special-education eligibility and alleged denial of parental participation.
G.M. v. Michael Martirano (Bredar)		
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23-1238	Briefs	IMMIGRATION: Whether petitioner's prior convictions categorically qualify as crimes involving moral turpitude under the Immigration and Nationality Act.
Carlos Gomez-Ruotolo v. Merrick Garland		

PANEL II
Judge Wilkinson, Judge Quattlebaum, Judge Rushing
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23-1476 [Briefs](#)
Center for Environmental Health v. Michael Regan
(Myers)

CIVIL: Whether the district court lacked jurisdiction to review EPA's decision which granted only a small amount of the relief requested in plaintiffs' petition.

Panel: Judge Agee, Judge Wynn, Judge Gibney*

23-1472 [Briefs](#)
Virtual Drone Services LLC v. Andrew Ritter
(Flannagan)

CONSTITUTIONAL LAW: Whether N.C. statute providing that only licensed land surveyors may create and share aerial maps containing measurable information restricts speech in violation of the First Amendment.

21-1414 [Briefs](#)
The Wall Guy, Inc. v. FDIC
(Chambers)

CIVIL: Whether jurisdiction exists to review borrower's challenges to 2022 and 2023 orders; propriety of determination that contract claim failed under 12 U.S.C. section 1823(e)(1).

Associations: 21-1387, 23-1380

23-1282 [Briefs](#)
Nathaniel Nolan v. Laboratory Corporation
(Schroeder)

CIVIL: Whether plaintiffs failed to state a claim for unfair trade practices related to potentially misleading statements of costs for lab tests.

PANEL III
Judge Agee, Judge Wynn, Judge Thacker
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9:30 a.m.

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

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23-1313 [Briefs](#) CIVIL: Challenge to grant of summary judgment finding Lindberg, as guarantor, breached guaranty agreement by failing to pay arbitration award.
Universal Life Insurance Co. v. Greg Lindberg
(Biggs)

21-4231 [Briefs](#) CRIMINAL: Whether Virginia attempted murder and Virginia attempted unlawful wounding are crimes of violence; other issues.
US v. Martin Hunt
(Davis)
Associations: 21-4300, 21-4334, 21-4349, 21-4355, 21-4358, 21-4509

23-1281 [Briefs](#) IMMIGRATION: When IJ presides over hearing from home rather than court, is IJ's "assigned work location" the home or the court; other issues.
David Annor v. Merrick Garland

23-6334 [Briefs](#) CIVIL: Whether inmate failed to state a claim under RLUIPA or Free Exercise Clause related to prison's refusal to provide religiously compliant, nutritionally adequate diet.
Ricky Pendleton v. Betsy Jividen
(Goodwin)

PANEL IV
Judge Heytens, Judge Benjamin, Senior Judge Motz
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23-1400 [Briefs](#) CIVIL: Challenge under ADA and N.C. Gen. Stat. 95-28.2(c) to employee's termination based on positive drug test
Tonya Anderson v. Diamondback Investment resulting from use of legal products containing THC.
(Biggs)

23-1163 [Briefs](#) TORT: Whether district court erred in finding Appellants were statutory employees under South Carolina law.
Parker Wideman v. Innovative Fibers LLC
(Coggins)
Associations: 23-1167, 23-1169

22-2075 [Briefs](#) CONSTITUTIONAL LAW: Challenge to district court's conclusion that TEDCO is an "arm of the state" entitled to Eleventh
Angela Singleton v. Maryland Technology Amendment immunity.
(Coulson)

PANEL V
Chief Judge Diaz, Judge Niemeyer, Judge Richardson
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9:30 a.m.

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22-2265 [Briefs](#) CIVIL: Challenge to dismissal of subcontractor licensing fraud claim on partial summary judgment; other issues.
John Harrell v. Douglas Deluca
(O'Grady)

22-1930 [Briefs](#) IMMIGRATION: Whether agency improperly assessed hardship to U.S. citizen child in denying cancellation of removal.
Virginia Garcia Cortes v. Merrick Garland

23-4179 [Briefs](#) CRIMINAL: Whether stop for jaywalking was based on reasonable suspicion; whether search of handcuffed suspect's
US v. Darryl Frazer
(Boardman) bag was based on credible threat to officer safety.

22-2013 [Briefs](#) CIVIL: Whether party had authority to call a funding referendum; whether district court properly determined that
Jill Jinks v. Sea Pines Resort LLC
(Norton) unauthorized action was ratified; other issues.

Associations: 22-2056

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Judge King, Judge Wynn, Judge Rushing
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22-4407 [Briefs](#)
US v. Dashawn Garrett
(Boyle)

CRIMINAL: Whether plea is involuntary because of alleged law enforcement misconduct and Government's late disclosure of evidence that would have revealed the alleged misconduct.

22-4194 [Briefs](#)
US v. Makel Elboghdady
(Chambers)

CRIMINAL: Whether district court erred in declining to permit entrapment defense; substantive reasonableness of sentence.

22-2022 [Briefs](#)
Mitchell Evans v. US
(Flanagan)

CIVIL: Whether Government officer's alleged negligence resulted in foreseeable battery and was independent of tortfeasor's employment status, such that FTCA's intentional tort exception was inapplicable.

23-1150 [Briefs](#)
TBL Licensing, LLC v. Katherine Vidal
(Hilton)

TRADEMARK: Whether district court correctly concluded that Timberland's boot design is unregistrable because it is functional and has failed to acquire distinctiveness.

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22-2103 [Briefs](#) IMMIGRATION: Whether substantial evidence supports agency's adverse nexus ruling in mixed motive, family-based
Elsy Diaz-Hernandez v. Merrick Garland social group case; other issues.

Associations: 23-1291

22-4617 [Briefs](#) CRIMINAL: Whether trial court erred in denying motion for mistrial where Government failed to timely disclose Brady
US v. Terry George, Jr. evidence; other issues.

(Myers)

Associations: 23-4131

22-7279 [Briefs](#) CIVIL RIGHTS: Challenge to dismissal of Eighth and Fourteenth Amendment, ADA, and RA claims related to long-term
Angel Cartagena v. Allie Lovell solitary confinement of mentally ill inmate.

(Ballou)

22-6272 [Briefs](#) POSTCONVICTION: Whether petitioner had to choose between exercising Fifth Amendment right against self
Donald Herrington v. Chadwick Dotson incrimination and Sixth Amendment right to counsel; whether petitioner's appellate counsel was ineffective.

(Trenga)

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Judge Niemeyer, Judge Agee, Judge Thacker
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22-2280 [Briefs](#)
Isai Dubon v. Ur Jaddou
(Biggs)

IMMIGRATION: Whether appeal of remand order in case brought under 8 U.S.C. section 1447(b) is interlocutory.

23-1328 [Briefs](#)
Mark Jones v. MSPB

ADMINISTRATIVE LAW: Whether MSPB correctly found that it lacked jurisdiction over Appellants' Whistleblower Protection Act individual rights action; other issues.

22-4499 [Briefs](#)
US v. David Whitehead
(Boyle)

CRIMINAL: Whether sufficient evidence supports convictions for smuggling aliens to a place other than a designated port of entry; related issues.

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22-4322	Briefs	CRIMINAL: Whether district court properly admitted certain propensity evidence and evidence of prior bad acts in child pornography case; other issues.
US v. Michael Hoover (Bell)		
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23-1457	Briefs	CIVIL: Challenge to Agency interpretation of Medicaid Drug Rebate Program's "line extension" provision and what drug formulations qualify as a new drug.
Vanda Pharmaceuticals, Inc. v. Centers (Maddox)		

PANEL V
Judge Wilkinson, Senior Judge Motz, Judge Gibney*
Tweed Courtroom (Room 414-D)
9:30 a.m.

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

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23-1339	Briefs	JURISDICTION: Whether district court's remand order based on Barton doctrine and enforcement of forum selection clause is reviewable; merits of district court's ruling.
Peter Protopapas v. Travelers Casualty and Sty (Coggins)		
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22-4726	Briefs	CRIMINAL LAW: Whether defendant's fingerprint on an easily movable notebook present at the crime scene established probable cause to search his car and apartment.
US v. Valentino Darosa (Conrad)		
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23-1571	Briefs	IMMIGRATION: Whether INA's Waiver Review Provision precludes judicial review of claims related to delays in processing applications.
Bethney Lovo v. Loren Miller (Dillion)		
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23-1119	Briefs	CIVIL: Cross appeal challenging district court's judgment holding defendants jointly and severally liable and reducing punitive damages award.
Elizabeth Sines v. Michael Hill (Moon)		
Associations: 23-1122, 23-1154		

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23-1718 [Briefs](#) TAX: Whether United Therapeutics correctly determined its section 41 research credit by excluding qualified clinical testing expenses.
United Therapeutics Corporation v. Comm. IRS

23-1453 [Briefs](#) CIVIL: Whether tax exemption under 26 U.S.C. 501(c)(3) constitutes receipt of Federal financial assistance under Title IX of the Education Amendments Act of 1972.
Donna Buettner-Hartsoe v. Baltimore Lutheran
(Bennett)

22-7371 [Briefs](#) CRIMINAL: Whether Petitioner has standing to assert a violation of NATO's Status of Forces Agreement; related issues.
Alan Dorrbecker v. Ely Infante
(Anderson)

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22-1703 [Briefs](#)
Ryan Carter v. US
(Hollander)

CIVIL: Whether Feres doctrine bars medical negligence claim brought by inactive member of Air National Guard retroactively called to duty following treatment at military hospital.

23-4330 [Briefs](#)
In re: Search Warrants
(Conrad)

CRIMINAL: Whether Government filter team impermissibly performs judicial function when unilaterally designating seized materials as non-privileged.

23-6179 [Briefs](#)
Kenneth Kelley v. William Bohrer
(Hazel)

POSTCONVICTION: Whether state court's denial of postconviction petition challenging voluntariness of guilty plea was contrary to clearly established law.

21-4578 [Briefs](#)
US v. Daniel Mathis
(Urbanski)

CRIMINAL: Whether error under United States v. Rogers, 961 F.3d 291 (4th Cir. 2020), exists with respect to supervision condition requiring warrantless searches.

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23-1052 [Briefs](#)
US v. Enrique Lizano
(Lydon)

CIVIL: Whether citizen-suit rights are inapplicable where EPA is proceeding in court after having issued an expiring administrative order, under Section 303; related issues.

22-2256 [Briefs](#)
CCWB Asset Investments, LLC v. Gregory
(Bennett)

CIVIL: Multi-issue challenge to district court's approval of receivership distribution plan.

Associations: 22-2296

22-1819 [Briefs](#)
City of Huntington, WV v. Amerisource
(Faber)

CIVIL: Whether West Virginia law allows public nuisance claims concerning the distribution and sale of products; related issues.

Associations: 22-1822

22-2190 [Briefs](#)
Catherine Antunes v. Xavier Becerra
(Moon)

CIVIL: Whether UVA hospital violated nurse's constitutional rights by terminating her for refusal to receive COVID-19 vaccine or seek medical or religious exemption; other issues.

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Judge King, Judge Benjamin, Senior Judge Keenan
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23-1821 [Briefs](#) CIVIL: Challenge to district court's grant of summary judgment in favor of DOJ related to agencies withholding of records.
Mark Zaid v. Department of Justice.
(Chasanow)

22-2187 [Briefs](#) CIVIL: Challenge to grant of summary judgment in favor of officers in excessive/deadly force case. Responsive to FOIA request
Taylor Quinn v. Christopher Zerkle
(Berger)
Associations: 22-2188

22-6313 [Briefs](#) CIVIL RIGHTS: Whether district court correctly determined that absence of admissible expert testimony necessarily
doomed plaintiff's deliberate indifference claim; other issues.
Daniel Phoenix v. Mark Amonette
(Cullen)

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23-6246 [Briefs](#) CIVIL RIGHTS: Whether inmate stated a claim for which damages are available in light of Egbert v. Boule, 142 S. Ct. 1793
Andrew Fields, III v. FBP (2022).
(Dillon)

22-2162 [Briefs](#) CIVIL: Whether website's Terms of Service authorizing marketing but not specifically prerecorded calls qualifies as prior
Tracie Beard v. John Hiester Chevrolet, LLC express written consent under the TCPA; other issues.
(Dever)

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23-1034	Briefs	CIVIL RIGHTS: Whether Defendant's warrant affidavit omitted relevant information to mislead the reviewing judicial officer; propriety of alternative qualified immunity ruling.
Angelo Jackson v. Michael Carin (Grimm)		
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21-7231	Briefs	CIVIL: Sufficiency of objections to the magistrate judge's report; if objections were sufficient, whether complaint states a claim for relief.
Donald Stout v. Preston County Sheriff's (Kleeh)		
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23-1431	Briefs	CIVIL: Multi-issue challenge to district court's dismissal of claims against officers who planted evidence and falsely arrested plaintiff.
Demetric Simon v. Keith Gladstone (Rubin)		
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23-4222	Briefs	CRIMINAL: Whether court erred in sua sponte instructing jury regarding validity of uncontested search warrant; whether court should have given "mere presence" instruction; other issues.
US v. Jerod Askew (Smith)		

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23-1696	Briefs	CIVIL: Whether receiver may transfer permits and execute coal mining subleases at the Chestnut Oak Surface Mine under terms of consent decree.
W. V. Highlands Conservancy v. ERP Environmental (Chambers)		
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23-4273	Briefs	CRIMINAL: Whether court erred in declining to consider First Step Act motion because defendant completed initial term and was facing supervised release revocation; other issues.
US v. Keith Mahatha (Tilley)		
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23-1365	Briefs	CIVIL: Whether district court erred granting summary judgment to defendant in N.C. Retaliatory Discrimination Act, wrongful discharge claims.
Anthony Vines v. Mountaire Farms, Inc. (Boyle)		

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23-6544 [Briefs](#)
US v. Abdi Osman
(Jackson)

POSTCONVICTION: Whether district court erred in concluding that extraordinary and compelling reasons - health and family circumstances - warranted compassionate release.

22-1271 [Briefs](#)
Wall Recycling, LLC v. 3TEK Global, LLC
(Schroeder)

CIVIL: Whether sales-contract condition precedent to equipment sale was waived; whether any such waiver was retracted by demand to sign contract; other issues.

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23-6044 [Briefs](#)
Ronald Cox v. Ronald Weber
(Grimm)

POSTCONVICTION: Whether grant of COA is reviewable; whether counsel was ineffective in failing to introduce location records that would impeach key witness' testimony.

Associations: 23-6148

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