

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
Remote argument (1/25/2022 - 1/28/2022 Session)

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Tuesday, January 25, 2022

19-1644 [Briefs](#)
Mayor and City Council of Balt v. BP P.L.C.
(Hollander)

JURISDICTION: Review of district court order remanding climate-change action to state court.

21-1714 [Briefs](#)
William Thorpe v. Harold Clarke
(Jones)

CONSTITUTIONAL LAW: Whether qualified immunity precludes Eighth Amendment, substantive due process, and procedural due process claims related to solitary confinement conditions.

20-1856 [Briefs](#)
Dialungana Salomao v. Merrick Garland

IMMIGRATION: Whether this Court possesses jurisdiction to review BIA's decision in asylum-only proceedings; whether BIA erred in affirming denial of motion to reopen proceedings.

PANEL I
Chief Judge Gregory, Judge Thacker, and Senior Judge Floyd
9:30 a.m.

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19-4031 [Briefs](#) SENTENCING: Whether U.S. Sentencing Guidelines Manual section 2K2.1(b)(6)(B) applies when the unlawfully
US v. Robert Cisson possessed firearm is the fruit of the underlying felony offense. 15-minute case.
(Childs)

20-2382 [Briefs](#) TORT: Whether trial court erred finding individual defendants liable for defamation in case arising out of
Thomas Cannon v. Calvin R. Peck, Jr. termination of employment by Village of Bald Head Island.
(Howard)
Associations: 21-1061

20-1790 [Briefs](#) CIVIL: Whether notification of dispute over loan modification agreement implicated trustee's fiduciary duty
Alkesh Tayal v. The Bank of New York Mellon under Virginia law.
(Trenga)

20-1163 [Briefs](#) CIVIL: Multiple issues arising from implementation and administration of services provided to intellectually
Johnny Timpson v. Anderson County Disabilities disabled individual.
(Coggins)

PANEL II
Judge Motz, Judge Agee, and Judge Wynn
9:30 a.m.

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20-1868 [Briefs](#) CIVIL: Challenge to district court's denial of motion to preliminarily enjoin government policy restricting
Natl Assoc Immigration Judges v. David Neal public speech by immigration judges; issues of subject matter jurisdiction, standing.
(O'Grady)

20-1835 [Briefs](#) IMMIGRATION: Whether, under Niz-Chavez v. Garland, 141 S. Ct. 1474 (2021), the requirements of 8 U.S.C.
Yurvin Morales-Lopez v. Merrick Garland section 1229(a)(1) must be satisfied in a single document.

21-4146 [Briefs](#) CRIMINAL: Whether section 924(c) conviction is valid where predicate crime of violence was based on
US v. Darrell Gillespie Pinkerton theory of co-conspirator liability; other issues.
(Volk)

20-2259 [Briefs](#) IMMIGRATION: Whether, considering the record as a whole, substantial evidence supports the denial of
Petrona Lopez v. Merrick Garland deferral of removal under the Convention Against Torture; related issues.

PANEL III
Judge Wilkinson, Judge Niemeyer, and Judge Heytens
9:30 a.m.

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19-7855 [Briefs](#)
Jason Jordan v. T. Large
(Sargent)

CIVIL RIGHTS: Whether magistrate judge erred in setting aside jury verdict and granting new trial on ground that verdict was irreconcilably inconsistent.

20-2140 [Briefs](#)
NLRB v. Constellium Rolled Products

ADMINISTRATIVE LAW: Whether adversity of interest is required by Article III and whether it existed at the time the NLRB filed its application for enforcement, in light of the employer's consent to the NLRB order.

20-7539 [Briefs](#)
Patrick McGraw v. Theresa Gore
(Myers)

CIVIL: Whether plaintiff's amended complaint naming new defendants relates back to the date of his original complaint under Fed. R. Civ. P. 15(c)(1)(C); other issues.

PANEL IV
Judge Harris, Judge Richardson, and Judge Quattlebaum
2:00 p.m.

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19-2173 [Briefs](#) CONTRACT: In dispute over association agreement between law firms, whether district court erred regarding personal jurisdiction, jury instructions, and discovery sanctions; related issues.
Keyes Law Firm, LLC v. Napoli Bern Ripka
(Bennett)
Associations: 19-2174, 20-1067, 20-1070, 20-2092

21-6423 [Briefs](#) CIVIL RIGHTS: Whether prison's internal investigation fulfilled inmate-plaintiff's administrative exhaustion requirement under PLRA.
Kevin Younger v. Neil Dupree
(Bennett)

21-4119 [Briefs](#) CRIMINAL: Whether district court abused discretion in denying motion to withdraw guilty plea, failing to conduct new arraignment hearing after original judge recused without explanation.
US v. Karlos Poole
(Dever)

PANEL V
Judge King, Judge Rushing, and Judge Novak*
2:00 p.m.

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*Hon. David J. Novak, United States District Judge, Eastern District of Virginia

Wednesday, January 26, 2022

20-2036 [Briefs](#)
Diana Cantu-Guerrero v. Lumber Liquidators,
(Trenga)
Associations: 20-2037
CLASS ACTION: Challenge to class counsel's attorney's fees; whether district court using lodestar method erred in considering coupon value without considering redemption value; related issues.

21-4020 [Briefs](#)
US v. Francisco Palacios-Arias
(Gibney)
CRIMINAL: Whether 8 U.S.C. section 1326(a), which proscribes illegally reentering the United States after having been previously removed, contravenes Fifth Amendment equal protection principles.

20-1832 [Briefs](#)
Barbara Bowden v. Forest River, Inc.
(Hilton)
CIVIL: Whether district court abused its discretion in finding Plaintiffs' evidence sufficient to support attorneys' billing rates in granting motion for attorneys' fees; other issues.

21-1754 [Briefs](#)
Kinsale Insurance Company v. JDHC Holdings,
(Bailey)
INSURANCE: Whether policy's Pollution Exclusion excludes coverage for losses caused by fire when acetone and methane vapors erupted into flame; related issues.

PANEL I
Chief Judge Gregory, Judge King, and Judge Heytens
9:30 a.m.

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19-2252 [Briefs](#) CIVIL RIGHTS: Whether district court erred in granting qualified immunity to medical professionals who provided unwanted medical treatment and tests to a mental health detainee.
Jane Doe v. Dr. Scott Syverud
(Moon)

20-2181 [Briefs](#) ERISA: Whether district court erred by determining that appellant was bound by collective bargaining agreement and liable for exit contribution; other issues.
Board of Trustees v. Four-C-Aire, Inc.
(O'Grady)

20-1406 [Briefs](#) JURISDICTION: Whether this Court possesses jurisdiction to review claims related to inclusion in the Terrorist Screening Database and placement on the No Fly List.
Saadiq Long v. David Pekoske

21-1655 [Briefs](#) CIVIL: Whether district court erred in ordering Rule 11 sanctions against plaintiff and counsel.
Svetlana Lokhova v. Stefan Halper
(Brinkema)

PANEL II
Judge Niemeyer, Judge Agee, and Judge Diaz
9:30 a.m.

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21-1043 [Briefs](#)
Planned Parenthood South Atlan v. Robert Kerr
(Lewis)

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.

21-1643 [Briefs](#)
Robert Whitmire v. Southern Farm Bureau Life
(Myers)

INSURANCE: Whether district court properly concluded N.C. Gen. Stat. section 58-58-120 applied and required premium notice be sent only to last known address of insured.

21-6616 [Briefs](#)
Rodney Koon v. State of North Carolina
(Flanagan)

CIVIL RIGHTS: Whether disabled inmate must show that library access was denied because of his disability to state a claim under the ADA and RA; related issues.

PANEL III
Judge Wilkinson, Judge Wynn, and Judge Richardson
9:30 a.m.

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20-1690 [Briefs](#) ARBITRATION: Whether district court erred in vacating Financial Industry Regulatory Authority arbitration award finding employee had been wrongfully terminated without just cause.
James Warfield v. ICON Advisers, Inc
(Mullen)

20-2197 [Briefs](#) CIVIL RIGHTS: Whether district court erred in granting Defendant qualified immunity and summary judgment on malicious prosecution, excessive force, and retaliatory prosecution claims.
Jeremiah Henderson v. Austin McClain
(Cullen)

20-2386 [Briefs](#) CIVIL RIGHTS: Whether district court erred in dismissing procedural due process claim based on trespass bar letter issued by police officer.
Jeremiah Henderson v. City of Roanoke, Virginia
(Cullen)

PANEL IV
Judge Motz, Judge Thacker, and Judge Quattlebaum
2:00 p.m.

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20-4297 [Briefs](#)
US v. Francisco Villa
(Reidinger)

CRIMINAL: Whether the district court erred by denying Villa's motion to dismiss the indictment alleging due process and Speedy Trial Act violations; other issues.

20-2191 [Briefs](#)
Progressive Northern Insurance v. Y.E.
(Lydon)

JURISDICTION: Whether insurance company has standing to file declaratory judgment action regarding its duty to defend/indemnify prior to suit being filed against insured; related issues.

PANEL V
Judge Harris, Judge Rushing, and Senior Judge Floyd
2:00 p.m.

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19-7071 [Briefs](#)
US v. John Proctor
(Chasanow)

CRIMINAL: Whether Maryland's now-repealed crime of assault with intent to prevent lawful apprehension qualifies as a violent felony for purposes of 18 U.S.C. section 924(e)(2)(B).

20-2334 [Briefs](#)
Jonathan Starbuck v. Williamsburg James City
(Davis)

CIVIL RIGHTS: Whether district court erred in concluding that Monell barred constitutional claims related to discipline imposed for student speech.

20-1590 [Briefs](#)
Lawrence Wiebusch v. SSA
(Childs)

SOCIAL SECURITY: Propriety of Appeals Council's decision to exclude claimant's new evidence from record; other issues.

20-6234 [Briefs](#)
US v. Jerrell Thomas
(Doumar)

CRIMINAL: Whether 21 U.S.C. section 848 conviction is for a covered offense under the First Step Act.

PANEL I
Chief Judge Gregory, Judge Motz, and Judge Wynn
9:30 a.m.

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20-1846 [Briefs](#)
Claudio De Simone v. VSL Pharmaceuticals, Inc.
(Chuang)
Associations: 20-1869
CIVIL: Propriety of civil contempt order and imposition of sanctions relating to violations of permanent injunction issued in dispute over probiotic products.

21-1498 [Briefs](#)
Edward Gelin v. Kyle Shuman
(Copperthite)
CIVIL: Whether good cause existed to grant extension under FRAP 4(m); whether district court lacked discretion to grant extension absent good cause.

20-6068 [Briefs](#)
Malcolm Muhammad v. L. Fleming
(Sargent)
CIVIL: Whether district court erred in denying motions to withdraw consent filed before case was referred to magistrate judge under 28 U.S.C. section 636(c).

19-2186 [Briefs](#)
Byron Martz v. Day Development Company, L.C.
(Blake)
Associations: 19-2241
CONTRACT: Cross appeals from district court's rulings on claims of breach of contract and unjust enrichment and court's calculation of damages; other issues.

PANEL II
Judge Niemeyer, Judge Diaz, and Judge Quattlebaum
9:30 a.m.

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17-4277 [Briefs](#)

US v. Vaxima, Inc.

(Hendricks)

Associations: 17-4278

CRIMINAL: Direct criminal appeal raising multiple issues related to sufficiency of indictment, denial of motion to suppress, judicial bias, validity of sentencing and forfeiture orders, others.

PANEL III

Judge Wilkinson, Judge Agee, and Senior Judge Floyd

9:30 a.m.

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20-7382	Briefs	CIVIL RIGHTS: Whether Muslim inmate had a clearly established right to a Kosher diet with meat that satisfied a Halal diet; related issues.
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20-2348	Briefs	CIVIL: Whether plaintiff has standing to pursue Americans with Disabilities Act claims predicated on third-party reservation websites containing non-ADA compliant information.
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21-1411	Briefs	TAX: Whether district court erred in concluding that tax sale was made subject to and without disturbing United States tax liens.
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21-1369	Briefs	Constitutional Law: Whether district court erred in granting preliminary injunction against South Carolina Fetal Heartbeat and Protection from Abortion Act.

PANEL IV
Judge King, Judge Thacker, and Judge Harris
2:00 p.m.

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21-1415 [Briefs](#) ADMINISTRATIVE LAW: Whether district court lacks subject matter jurisdiction over plaintiff's claims because
David Holbrook v. Tennessee Valley Authority TVA's rate-setting decisions are judicially unreviewable.
(Jones)

21-1177 [Briefs](#) IMMIGRATION: Whether Petitioner is precluded from pursuing the 8 U.S.C. section 1227(a)(1)(H)(i) waiver
Evans Julmice v. Merrick Garland because his qualifying relative died prior to waiver adjudication in immigration court.

19-4557 [Briefs](#) SENTENCING: Whether district court erred in applying USSG section 2D1.1(b)(12) enhancement for maintaining
US v. Keith Barnett a premises for the purpose of manufacturing or distributing controlled substances.
(Cogburn)

PANEL V
Judge Richardson, Judge Rushing, and Judge Heytens
2:00 p.m.

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Friday, January 28, 2022

20-1620 [Briefs](#)
JoAnn Britt v. Louis DeJoy
(Bennett)

JURISDICTION: Whether the Court has jurisdiction over the appeal; other issues.

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Chief Judge Gregory
Judge Wilkinson
Judge Niemeyer
Judge Motz
Judge King
Judge Agee
Judge Wynn
Judge Diaz
Judge Thacker
Judge Harris
Judge Richardson
Judge Quattlebaum
Judge Rushing
Judge Heytens
8:30 a.m.

Friday, January 28, 2022

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