

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (1/28/2020 - 1/31/2020 Session)  
Tuesday, January 28, 2020

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18-2008      [Briefs](#)  
Stacy Saunders v. Metropolitan Property  
( Dillon )

EMPLOYMENT: Whether district court erred in concluding Plaintiff failed to establish pretext on retaliation claim;  
other issues.

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

Tuesday, January 28, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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Richmond, VA (1/28/2020 - 1/31/2020 Session)  
Tuesday, January 28, 2020

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19-1990 [Briefs](#) CONSTITUTIONAL LAW: Whether the district court erred in failing to dismiss plaintiffs' constitutional claims in  
Intl Refugee Assistance v. Donald Trump light of Trump v. Hawaii, 138 S. Ct. 2392 (2018).  
( Chuang )

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18-4539 [Briefs](#) CRIMINAL: Whether evidence was sufficient as to Wallace, whether district court erred in admitting co-  
US v. Joseph Benson defendant statements, other issues.  
( Jackson )  
Associations: 18-4540, 18-4577

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18-4402 [Briefs](#) CRIMINAL: Whether the district court properly revoked supervised release, adequately explained revocation  
US v. Michael Patterson decision, and imposed plainly unreasonable sentence.  
( Reidinger )

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19-6417 [Briefs](#) CIVIL RIGHTS: Appeal from denial of qualified immunity to Department of Corrections attorneys on Eighth  
Marion Campbell v. Chris Florian Amendment claims arising from misinterpretation of early release statute.  
( Lewis )

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

Tuesday, January 28, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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Richmond, VA (1/28/2020 - 1/31/2020 Session)  
Tuesday, January 28, 2020

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18-1953 [Briefs](#)  
Kerron Andrews v. Baltimore City Police  
( Blake )

CIVIL RIGHTS: Challenge to district court's determination that police search using a cell site simulator to locate appellant was constitutional under Fourth Amendment; other issues.

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19-1750 [Briefs](#)  
Expo Properties, LLC v. Experient, Inc  
( Russell )

CIVIL: Challenge to district court's determination that estoppel certificate did not amend parties' lease agreement because it lacked mutual assent and consideration.

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18-2469 [Briefs](#)  
Hector Lopez Ordonez v. William Barr

IMMIGRATION: Whether substantial evidence supports the denial of asylum, withholding of removal and protection under the Convention Against Torture.

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18-2420 [Briefs](#)  
Cybernet, LLC v. Jonathan David  
( Jones )

CIVIL RIGHTS: Whether summary judgment was properly granted on claim of damage inflicted during execution of search warrant.

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

Tuesday, January 28, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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Tuesday, January 28, 2020

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19-6200 [Briefs](#)  
Quentin Braswell v. Donna Smith  
( Boyle )

POSTCONVICTION: Whether, after Wheeler, to proceed under section 2241, substantive law must both change and be deemed retroactive after first section 2255 motion; other issues.

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18-2139 [Briefs](#)  
Terence Williams v. Dimensions Health  
( Grimm )

CIVIL: Appeal from grant of summary judgment to hospital on plaintiff's Emergency Medical Treatment and Active Labor Act claims based on care following automobile accident.

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18-1689 [Briefs](#)  
Lorenzo Johnson, Jr. v. Old Dominion  
( Allen )

EMPLOYMENT: Whether the district court properly denied relief on plaintiffs ADA and retaliation claims related to his failure to undergo a fitness-for-duty evaluation.

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

Tuesday, January 28, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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Tuesday, January 28, 2020

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19-7104 [Briefs](#)  
US v. Brooks Chambers  
( Reidinger )

SENTENCING: Whether error in application of career-offender enhancement in original sentence should have been considered when acting on motion for reduction of sentence under First Step Act.

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18-4099 [Briefs](#)  
US v. Charles Spivey, Jr.  
( Howard )

CRIMINAL: Whether venue was proper in prosecution for failure to register under SORNA in state where sex offender began interstate travel; other issues.

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18-1534 [Briefs](#)  
Diana Mey v. DIRECTV, LLC  
( Bailey )

CONTRACT: Propriety of district court's order determining that class action claims under the Telephone Consumer Protection Act did not fall within the scope of arbitration provision.

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18-2245 [Briefs](#)  
ALPS Prop. & Cas. v. Ivan Higgerson, Sr.  
( Davis )

INSURANCE: Whether district court properly applied the negligent supervision exclusion in malpractice insurance contract.

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

Tuesday, January 28, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (1/28/2020 - 1/31/2020 Session)  
Wednesday, January 29, 2020

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19-0305 [Briefs](#) POST CONVICTION: Whether movant is entitled to authorization to file second or successive section 2254  
In re: Emerson Stevens petition based on new evidence.

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18-2474 [Briefs](#) CIVIL RIGHTS: Whether district court erred by dismissing claims by gun organization and individual gun owners  
Maryland Shall Issue, Inc. v. Lawrence Hogan challenging Maryland firearm accessory ban as unconstitutional.  
( Bredar )

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18-2435 [Briefs](#) CIVIL: Whether the district court properly applied nonmutual collateral estoppel; related issues.  
Michael Musselwhite v. Mid-Atlantic Rest.  
( Boyle )

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

Wednesday, January 29, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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Wednesday, January 29, 2020

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18-4696 [Briefs](#)  
US v. Joey Brunson  
( Anderson )  
CRIMINAL: Whether wiretap order is "insufficient on its face" under section 2518(10)(a)(ii) where it fails to identify the Justice Department official who approved the underlying application.

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18-4837 [Briefs](#)  
US v. Charles Williamson  
( Bailey )  
CRIMINAL: Whether drugs consumed by accomplice's personal use were properly included in defendant's relevant conduct; credibility determination at sentencing.

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18-1961 [Briefs](#)  
Gary Day v. United Bank  
( Xinis )  
CIVIL: Propriety of district court's dismissal of appellant's claims alleging violations of Assignment of Claims Act; other issues.

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18-1575 [Briefs](#)  
US ex rel. Citynet, LLC v. Jimmy Gianato  
( Copenhaver )  
CIVIL: Whether Appellants are entitled to qualified immunity; related issues.

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

Wednesday, January 29, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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Wednesday, January 29, 2020

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19-1024 [Briefs](#)  
Patrick Baehr v. Creig Northrop Team, P.C.  
( Bennett )  
CIVIL: Whether the district court correctly granted Defendants summary judgment in class action suit, brought pursuant to the Real Estate Settlement Procedures Act; other issues.

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18-4789 [Briefs](#)  
US v. Jovon Medley  
( Grimm )  
CRIMINAL: Whether Defendant's invocation of Sixth Amendment right to counsel applied to subsequent interrogation; if so, whether Defendant waived this right; other issues.

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18-2497 [Briefs](#)  
Justin Fessler v. IBM Corporation  
( Ellis )  
CIVIL: Whether appellant plausibly stated claims of fraudulent misrepresentation, constructive fraud, and unjust enrichment to survive dismissal at pleading stage.

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18-2351 [Briefs](#)  
Diana Cantu-Guerrero v. Lumber  
( Trenga )  
Associations: 18-2490, 19-1231  
CLASS ACTION: Challenge by class members to class action settlement approval and class counsels' fee award; whether settlement is subject to Class Action Fairness Act.

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

Wednesday, January 29, 2020



UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (1/28/2020 - 1/31/2020 Session)  
Wednesday, January 29, 2020

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19-1034	<a href="#">Briefs</a>	TORT: Whether district court erred by determining that 49 C.F.R. section 376.12(c)(1) created a rebuttable presumption of employment status between motor carrier and owner-operator lessor.
Richard Edwards, Jr. v. Cardinal Transport, ( Chambers )		
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18-4442	<a href="#">Briefs</a>	CRIMINAL: Whether district court's comments deprived Defendant of due process; other issues.
US v. Antoine Myles ( Boyle )		
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19-1783	<a href="#">Briefs</a>	CONSTITUTIONAL LAW: Whether district court erred by dismissing plaintiffs' election law challenges to Maryland's ballot-access and signature-validation requirements; ripeness.
Robert Johnston, III v. Linda Lamone ( Blake )		
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18-2385	<a href="#">Briefs</a>	CIVIL: Whether the district court correctly construed the fee-shifting provision in Section 505(d) of the Clean Water Act, 33 U.S.C. section 1365(d) (2012); related issues.
Sanitary Bd. of Charleston v. Andrew Wheeler ( Goodwin )		

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

Wednesday, January 29, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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Wednesday, January 29, 2020

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18-4547 [Briefs](#) CRIMINAL: Propriety of dismissal of indictment for failing to register under SORNA; whether United States v. Gould, 568 F.3d 459 (4th Cir. 2009), remains good law after Carr v. United States, 560 U.S. 438 (2010); other issues.  
US v. Edward Wass  
( Boyle )

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18-2078 [Briefs](#) TORT: Whether material facts in dispute related to defamation claims; other issues.  
Samuel Ballengee v. CBS Broadcasting,  
( Goodwin )

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18-4744 [Briefs](#) SENTENCING: Propriety of supervised release condition banning defendant convicted of possession and transportation of child pornography from using computers and imposition of special assessment under 18 U.S.C. section 3014.  
US v. Benjamin McMiller  
( Conrad )

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18-2107 [Briefs](#) TRADEMARK: Whether district court erred by granting summary judgment to defendant on trade dress infringement claims because genuine factual issues existed with respect to functionality.  
CTB, Inc. v. Hog Slat, Inc.  
( Flanagan )

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

Wednesday, January 29, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (1/28/2020 - 1/31/2020 Session)  
Thursday, January 30, 2020

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18-4233 [Briefs](#)  
US v. Billy Curry, Jr.  
( Lauck )

REHEARING EN BANC

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

Thursday, January 30, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (1/28/2020 - 1/31/2020 Session)  
Thursday, January 30, 2020

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19-2076 [Briefs](#)  
In re: John Moore

MANDAMUS: Whether mandamus should issue to require recusal of district judge who had obtained, as an Assistant United States Attorney, one of the convictions supporting a three-strikes enhancement under 18 USC section 3559(c)(1).

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18-2376 [Briefs](#)  
Affinity Living Group, LLC v. Starstone  
( Eagles )

CIVIL: Whether there is jurisdiction over appeal from partial judgment and voluntary dismissal of remaining claims; other issues.

PANEL I  
Red Courtroom (Room 412)  
After the en banc session

Thursday, January 30, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (1/28/2020 - 1/31/2020 Session)  
Thursday, January 30, 2020

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18-6833 [Briefs](#)  
US v. Sherif Akande  
( Titus )

HABEAS: Whether counsel was ineffective as to his advice regarding Akande's appellate rights or the standard of proof for withdrawing a guilty plea.

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18-4794 [Briefs](#)  
US v. Dawn Cottman  
( Russell )

CRIMINAL: Whether district court should have excluded testimony pursuant to Fed. R. Evid. 403; whether the court erred in denying Cottman's suppression motion.

PANEL II  
Butzner Courtroom 201  
After the en banc session

Thursday, January 30, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (1/28/2020 - 1/31/2020 Session)  
Thursday, January 30, 2020

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18-1958      [Briefs](#)      ARBITRATION: Whether Appellant's Title VII claims fall within the scope of the arbitration agreement.  
Shannon Ashford v. PricewaterhouseCoopers  
( Currie )

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19-1005      [Briefs](#)      EMPLOYMENT: Whether former employee may bring a retaliation claim under the Fourteenth Amendment's  
Colette Wilcox v. Nathan Lyons  
( Urbanski )  
Equal Protection Clause; other issues.

PANEL III  
Blue Courtroom (Room 339)  
After the en banc session

Thursday, January 30, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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Thursday, January 30, 2020

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18-4606 [Briefs](#)  
US v. Leroy Moore, Jr.  
( Flanagan )

CRIMINAL: Whether district court erred in denying motion to suppress evidence discovered during traffic checkpoint stop.

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19-4588 [Briefs](#)  
US v. Daryl Vandonk  
( Urbanski )

SENTENCING: Whether court improperly delegated authority over supervised release when requiring appellant to abide by sex offender treatment conditions until discharged by treatment provider; other issues.

PANEL V  
Tweed Courtroom (Room 414-D)  
After the en banc session

Thursday, January 30, 2020

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FOR THE FOURTH CIRCUIT  
Richmond, VA (1/28/2020 - 1/31/2020 Session)  
Friday, January 31, 2020

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19-4550 [Briefs](#)  
US v. Michael Miselis  
( Moon )  
Associations: 19-4551

CRIMINAL: Whether the Anti-Riot Act, 18 U.S.C. section 2101, is unconstitutionally overbroad and vague.

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18-4175 [Briefs](#)  
US v. Bakari McMillan  
( Norton )

CRIMINAL: Whether district court erred in denying motion for judgment of acquittal and in omitting multiple conspiracies and specific unanimity jury instructions; other issues.

Associations: 18-4182, 18-4462

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18-4723 [Briefs](#)  
US v. Edward McCain  
( Duffy )

CRIMINAL: Whether life sentence for crimes committed as a juvenile was procedurally and substantively reasonable; other issues.

PANEL I  
Red Courtroom (Room 412)  
8:00 a.m.

Friday, January 31, 2020



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Friday, January 31, 2020

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18-4455 [Briefs](#)  
US v. Kendrick Brinkley  
( Conrad )

CRIMINAL: Whether officers had reasonable belief under standard articulated in Payton v. New York, 445 U.S. 573 (1980), to enter apartment to serve arrest warrant.

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19-1383 [Briefs](#)  
Felicia Dean v. Stephen McKinney  
( Cain )

CIVIL RIGHTS: Appeal from denial of qualified immunity to officer on plaintiff's due process claims arising from collision with police vehicle; application of Parratt-Hudson doctrine.

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19-1091 [Briefs](#)  
Common Cause v. David Lewis  
( Flanagan )  
Associations: 19-1094

CIVIL: Appeal by North Carolina legislative defendants from district court's order remanding plaintiffs' redistricting suit to state court; cross-appeal from denial of fees.

PANEL II  
Butzner Courtroom 201  
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Friday, January 31, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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Friday, January 31, 2020

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18-2234 [Briefs](#) CIVIL RIGHTS: Whether officer's use of force was excessive under clearly established law; whether Court has jurisdiction over interlocutory appeal.  
Antwon Gallmon, Jr. v. Robert Cooper  
( Wooten )

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19-1019 [Briefs](#) CIVIL: Multiple related appeals from jury verdicts and damage awards in North Carolina hog farm nuisance litigation.  
Joyce McKiver v. Murphy-Brown, LLC  
( Britt )

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19-1290 [Briefs](#) CIVIL: Challenge to district court's grant of injunction under All Writs Act enjoining appellant from licensing software to new customers pending satisfaction of prior money judgment.  
SAS Institute, Inc. v. World Programming  
( Flanagan )  
Associations: 19-1300

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18-4295 [Briefs](#) CRIMINAL: Sufficiency of the evidence to support drug conspiracy convictions; dismissal of counts without prejudice on venue grounds; propriety of drug weight calculations.  
US v. Terrance Brown, Jr.  
( Urbanski )  
Associations: 18-4316, 18-4317

PANEL III  
Blue Courtroom (Room 339)  
8:30 a.m.

Friday, January 31, 2020

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FOR THE FOURTH CIRCUIT  
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Friday, January 31, 2020

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18-4796 [Briefs](#)  
US v. Antonio Miller  
( Lewis )

CRIMINAL: Whether district court erred in denying motion to suppress vehicle search within curtilage of home; whether Leon exception applied to search of home.

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19-4609 [Briefs](#)  
US v. Tredarius Keene  
( Urbanski )

CRIMINAL: Whether brandishing, in violation of Virginia Code section 18.2-282, qualifies as a predicate offense under 18 USC section 1959.

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19-6852 [Briefs](#)  
US v. Brandon Gravatt  
( Currie )

SENTENCING: Whether relief is available under section 404(b) of the First Step Act where the offense of conviction, for 50 grams or more of cocaine base, was a covered offense but where the count also contained a charge of 5 kilograms or more of cocaine,

PANEL IV  
Gold Courtroom (Room 348)  
8:30 a.m.

Friday, January 31, 2020

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (1/28/2020 - 1/31/2020 Session)  
Friday, January 31, 2020

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18-2310 [Briefs](#) IMMIGRATION: Whether the district court had jurisdiction under 8 U.S.C. section 1252(a)(2)(B) (2012) to review  
Robert Polfliet v. Kenneth Cuccinelli, II visa revocation; related issues.  
( Childs )

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18-2033 [Briefs](#) EMPLOYMENT: Cross-appeals from district court's rulings on plaintiff's discrimination and failure-to-reemploy  
Thomas Harwood, III v. American Airlines claims under Uniformed Services Employment and Reemployment Rights Act; other issues.  
( O'Grady )  
Associations: 18-2074

PANEL V  
Tweed Courtroom (Room 414-D)  
8:30 a.m.

Friday, January 31, 2020