

Tuesday, March 7, 2023

---

21-0009	<a href="#">Briefs</a>	CAPITAL CASE: Whether suppression of evidence and knowing presentation of false and misleading testimony were cumulatively material under Brady and Napue.
Anthony Juniper v. Melvin Davis (Gibney)		
<hr/>		
19-7638	<a href="#">Briefs</a>	POSTCONVICTION: Voluntariness of guilty plea when defendant did not understand that guidelines were advisory and that he could be sentenced above range in plea agreement.
Calvin Currica v. Richard Miller (Xinis)		
<hr/>		
20-6778	<a href="#">Briefs</a>	JURISDICTION: Propriety of district court's order reopening appeal period; meaning of "receive notice" under Fed. R. App. P. 4(a)(6).
Melodie Shuler v. Orangeburg County Sheriff's (Lewis)		

PANEL I  
Chief Judge Gregory, Judge Wynn, Judge Diaz  
Red Courtroom (Room 412)  
9:30 a.m.

Tuesday, March 7, 2023

[LISTEN](#)

Tuesday, March 7, 2023

---

21-1864 [Briefs](#) IMMIGRATION: Whether the petition for review was timely as to the Board's order dismissing the appeal;  
Williams Rodriguez Salgado v. Merrick Garland related issues.

---

22-1497 [Briefs](#) CIVIL: Multi-issue challenge to grant of summary judgment in contract dispute.  
Michael Klein v. Stanley Campbell  
(Brinkema)  
Associations: 22-1524

---

22-1322 [Briefs](#) IMMIGRATION: Whether noncitizens whose grant of asylum has been terminated remain eligible to adjust to  
Tiger Cela v. Merrick Garland lawful permanent resident (LPR) status under 8 U.S.C. 1159(b).

PANEL II  
Judge Agee, Judge Harris, Judge Quattlebaum  
Butzner Courtroom 201  
9:30 a.m.

Tuesday, March 7, 2023

[LISTEN](#)

Tuesday, March 7, 2023

---

20-4433 [Briefs](#)  
US v. Quintin Davis  
(Lewis)

CRIMINAL: Whether court erred by failing to instruct on lesser-included offense; other issues.

---

22-1573 [Briefs](#)  
Clary Hood, Inc. v. Commissioner, IRS

TAX: Whether district court erred in disallowing certain tax deductions and allowing a penalty related to company's payment of bonus to CEO.

---

22-1447 [Briefs](#)  
Summer Lashley v. Spartanburg Methodist  
(Dawson)

EMPLOYMENT: Whether district court erred in granting summary judgment on retaliation claims; other issues.

PANEL III  
Judge Wilkinson, Judge Niemeyer, Judge King  
Blue Courtroom (Room 339)  
9:30 a.m.

Tuesday, March 7, 2023

[LISTEN](#)

Tuesday, March 7, 2023

---

22-1659	<a href="#">Briefs</a>	CIVIL: Whether a claim that the USPTO violated the Lanham Act by granting a petition to renew a trademark registration that had already expired is reviewable.
Bacardi and Company Limited v. United States (O'Grady)		
<hr/>		
21-4076	<a href="#">Briefs</a>	CRIMINAL: Whether district court plainly erred in instructing the jury on aiding and abetting, which affected defendant's substantial rights; other issues.
US v. Yakotus Odum (Cogburn)		
<hr/>		
22-1927	<a href="#">Briefs</a>	CIVIL: Whether West Virginia Medicaid Program exclusion denying surgical care for gender dysphoria violates Equal Protection, Fourteenth Amendment, Affordable Care Act, and/or Medicaid Act.
Christopher Fain v. William Crouch (Chambers)		
<hr/>		
22-1216	<a href="#">Briefs</a>	BANKRUPTCY: Whether disgorgement order for violating strict liability municipal regulation is dischargeable in bankruptcy where alleged to have been obtained by false pretenses.
Roe Kiviti v. Naveen Bhatt (Trenga)		

PANEL IV  
Judge Richardson, Judge Rushing, Senior Judge Motz  
Gold Courtroom (Room 348)  
9:30 a.m.

Tuesday, March 7, 2023

[LISTEN](#)

Tuesday, March 7, 2023

---

22-2045 [Briefs](#)  
Erin Osmon v. US  
(Reidinger)

CIVIL: Whether TSA screeners are "investigative or law enforcement officers" for the purposes of the Federal Tort Claims Act, 28 U.S.C. 2680(h).

---

20-7102 [Briefs](#)  
Shelly Stevens v. Dawn Holler  
(Coulson)

CIVIL: Whether Plaintiff sufficiently alleged that Defendants were deliberately indifferent to pretrial detainee's objectively serious medical needs, leading to the detainee's death.

---

22-1373 [Briefs](#)  
Moses Enterprises, LLC v. Lexington Insurance  
(Chambers)

INSURANCE: Whether district court erroneously awarded Plaintiff attorneys' fees for services rendered through settlement of litigation; other issues.

---

22-1478 [Briefs](#)  
Charlotte-Mecklenburg County Board  
(Conrad)

CIVIL: In IDEA action, whether counterclaim was barred by statute of limitations; whether Board of Education complied with statutory requirements; other issues.

Associations: 22-1532

PANEL V  
Judge Thacker, Judge Heytens, Judge Dawson\*  
Tweed Courtroom (Room 414-D)  
9:30 a.m.

Tuesday, March 7, 2023

[LISTEN](#)

\*Hon. Joseph Dawson, III, United States District Judge, District of South Carolina

Wednesday, March 8, 2023

---

22-6901 [Briefs](#) IMMIGRATION: Whether Lithuania satisfied the document requirements of the Extradition Treaty; related  
Darius Vitkus v. Antony Blinken issues.  
(Nachmanoff)

---

20-1730 [Briefs](#) TORT: Whether evidence of store's constructive notice of water on the floor prior to appellant's fall was  
Annakutty Joseph v. Target Stores, Inc. sufficient to withstand summary judgment.  
(Hilton)

---

22-1082 [Briefs](#) CIVIL RIGHTS: Whether summary judgment was proper in action challenging officers' entry into Appellant's  
Adam Armstrong v. Bryan Hutcheson home based on estranged spouse's claim that it was marital home; qualified immunity.  
(Dillon)

PANEL I  
Judge King, Judge Diaz, Judge Quattlebaum  
Red Courtroom (Room 412)  
9:30 a.m.

Wednesday, March 8, 2023

[LISTEN](#)

Wednesday, March 8, 2023

---

21-1596 [Briefs](#)  
Z. W. v. Horry County School District  
(Dawson) CIVIL: Whether Appellants' claims concerned the denial of a free and appropriate education, requiring them to exhaust administrative remedies under the IDEA.

---

22-1629 [Briefs](#)  
Margaret Chambers v. North Carolina  
(Cogburn) CIVIL: Whether 28 U.S.C. section 1658's statute of limitations is applicable to a claim brought under 42 U.S.C. section 1981 through 42 U.S.C. section 1983.

---

21-1897 [Briefs](#)  
Faustino Carrera v. E.M.D. Sales Inc.  
(Bredar) EMPLOYMENT: Following Encino Motorcars, LLC v. Navarro, whether district court erred in applying clear and convincing evidence standard to determine whether FLSA plaintiffs were outside salespeople.

Associations: 21-1924

PANEL II  
Judge Wynn, Judge Harris, Judge Heytens  
Butzner Courtroom 201  
9:30 a.m.

Wednesday, March 8, 2023

[LISTEN](#)

Wednesday, March 8, 2023

---

21-2161	<a href="#">Briefs</a>	LABOR: Whether a healthcare provider's policy of deducting outstanding medical expenses from its employees' paychecks violates South Carolina Payment of Wages Act or constitutes unconscionable contract.
Carole Sawyer v. Tidelands Health ASC, LLC (Lydon)		
<hr/>		
20-1766	<a href="#">Briefs</a>	CIVIL: Whether appellant must file new notice of appeal after court grants Rule 4(a)(6) motion; whether prison mailbox rule applies to FTCA claims; other issues.
Donte Parrish v. US (Keeley)		
<hr/>		
21-4411	<a href="#">Briefs</a>	CRIMINAL: Whether district court had jurisdiction over employee of Veterans Affairs Transition Assistance Program on overseas military base for purposes of criminal prosecution.
US v. Emilio Moran (Dever)		
<hr/>		
22-4131	<a href="#">Briefs</a>	CRIMINAL: Whether district court had subject matter jurisdiction over 18 U.S.C. section 2251(a) prosecution for conduct committed overseas by a non-U.S. citizen; other issues.
US v. Troy Skinner (Lauck)		

PANEL III  
Chief Judge Gregory, Judge Niemeyer, Judge Richardson  
Blue Courtroom (Room 339)  
9:30 a.m.

Wednesday, March 8, 2023

[LISTEN](#)



Wednesday, March 8, 2023

---

22-1023 [Briefs](#) INSURANCE: Whether policy definition of claim encompassed search warrant and recusal demand; whether  
Brown Goldstein Levy LLP v. Federal Insurance legal fees were excluded from policy definition of loss.  
(Johnston)

\*Senior Judge Motz is replaced by Senior Judge Keenan

---

22-1738 [Briefs](#) CIVIL: Whether district court had jurisdiction over postjudgment motion to intervene; if so, whether court  
Federal Trade Commission v. Yu Lin abused its discretion by denying motion on merits; other issues.  
(Messitte)

---

22-1797 [Briefs](#) CIVIL: Whether ALJs who heard and decided Plaintiffs' claims validly appointed in light of the Federal  
Barbara Rush v. Kilolo Kijakazi Vacancies Reform Act's (FVRA) time limit on acting service.  
(Bell)  
Associations: 22-1834, 22-1901

---

22-1910 [Briefs](#) CIVIL: Whether district court erred in granting summary judgment for university in student-on-student sexual  
Jamie Luskin v. University of Maryland College harassment case.  
(Xinis)

PANEL IV  
Judge Wilkinson, Judge Thacker, Senior Judge Motz\*  
Gold Courtroom (Room 348)  
9:30 a.m.

Wednesday, March 8, 2023

[LISTEN](#)

\*Senior Judge Motz is replaced by Senior Judge Keenan in No. 22-1023

Wednesday, March 8, 2023

---

22-6704	<a href="#">Briefs</a>	POSTCONVICTION: Propriety of denial of relief on 28 U.S.C. section 2254 petition challenging West Virginia's proportionality standards as unconstitutionally vague.
Johnnie Wills v. Karen Pszczolkowski (Bailey)		
<hr/>		
22-1812	<a href="#">Briefs</a>	CIVIL: Whether Appellant established existence of trade secrets; whether district court properly excluded expert reports; other issues.
Synopsisys, Inc. v. Risk Based Security, Inc. (Gibney)		
<hr/>		
21-2396	<a href="#">Briefs</a>	INSURANCE: Whether district court erred in holding reverse triangular merger was not an acquisition within meaning of "bump up clause" in management liability insurance policies
Towers Watson & Co. v. National Union Fire (Trenge)		

PANEL V  
Judge Agee, Judge Rushing, Judge Dawson\*  
Tweed Courtroom (Room 414-D)  
9:30 a.m.

Wednesday, March 8, 2023

[LISTEN](#)

\*Hon. Joseph Dawson, III, United States District Judge, District of South Carolina

Thursday, March 9, 2023

---

20-0159 [Briefs](#) POSTCONVICTION: Whether, in light of Rehaif v. United States, 139 S. Ct. 2191 (2019), movant should be permitted to file successive 28 U.S.C. section 2255 motion.  
In re: Randolph McNeill

---

21-7352 [Briefs](#) POSTCONVICTION: Whether BOP miscalculated release date by failing to give credit for prior time served and good conduct time under First Step Act section 102(b)(b)(1)(A).  
Larone Elijah v. Richard Dunbar  
(Dawson)

---

22-1654 [Briefs](#) CIVIL: Multi-issue challenge to district court's denial of motion to quash grand jury subpoenas duces tecum and its order compelling production of documents.  
In re: Grand Jury 2021 Subpoenas  
(Gallagher)  
Associations: 22-1655, 22-1656

PANEL I  
Judge Gregory, Judge Wynn, Senior Judge Floyd  
Red Courtroom (Room 412)  
9:30 a.m.

Thursday, March 9, 2023

[LISTEN](#)

Thursday, March 9, 2023

---

22-1268 [Briefs](#) ARBITRATION: Whether arbitration award drew its essence from collective bargaining agreement; whether Advantage Veterans Services of Walterboro LLC district court properly deferred to arbitrator's evidentiary conclusions.  
(Seymour)

---

22-2034 [Briefs](#) CONSTITUTIONAL LAW: Challenge to school district policy precluding school personnel from disclosing John and Jane Parents 1 v. Montgomery County students' transgender identity to their parents in certain circumstances.  
(Grimm)

---

16-4489 [Briefs](#) CRIMINAL: Whether South Carolina attempted armed robbery is a crime of violence under the Sentencing US v. Lokheim Jeralle Campbell Guidelines.  
(Wooten)

---

22-1049 [Briefs](#) IMMIGRATION: Whether, in conducting underlying pro se removal proceedings, the immigration judge Jose Trejo Tepas v. Merrick Garland complied with *Quintero v. Garland*, 998 F.3d 612 (4th Cir. 2021); other issues.

PANEL II  
Judge Niemeyer, Judge Quattlebaum, Judge Rushing  
Butzner Courtroom 201  
9:30 a.m.

Thursday, March 9, 2023

[LISTEN](#)

Thursday, March 9, 2023

---

22-1824	<a href="#">Briefs</a>	CIVIL RIGHTS: Whether district court erred in dismissing, on qualified immunity grounds, action alleging police fabrication of evidence that led to false murder confession.
Paul Canady, II v. James Holder (Flanagan)		
<hr/>		
22-1912	<a href="#">Briefs</a>	CIVIL: Whether district court erred in dismissing railroad employee's race discrimination claim for lack of subject matter jurisdiction.
Dawn Polk v. Amtrak National Railroad (Griggsby)		
<hr/>		
19-7748	<a href="#">Briefs</a>	CRIMINAL: Whether the district court erred in determining that Graham's conviction under section 924(c) was predicated upon carjacking rather than kidnapping.
US v. Elliott Graham (Wooten)		
<hr/>		
22-1032	<a href="#">Briefs</a>	IMMIGRATION: Whether petitioner was removable despite pending relief applications; standard applicable to serious nonpolitical crime bar; whether petitioner was entitled to Convention Against Torture protection.
Anthony Whyte v. Merrick Garland		

PANEL III  
Judge Wilkinson, Judge Agee, Judge Heytens  
Blue Courtroom (Room 339)  
9:30 a.m.

Thursday, March 9, 2023

[LISTEN](#)

Thursday, March 9, 2023

---

22-1279 [Briefs](#) CIVIL: Whether 2006 FCC Order is entitled to Skidmore deference; whether unsolicited fax sent by defendant to  
Carlton & Harris Chiropractic, Inc. v. PDR plaintiff is an advertisement under TCPA.  
(Chambers)

---

21-1571 [Briefs](#) SECURITIES FRAUD: Whether genuine issues of fact exist for trial regarding materiality, loss causation, or  
Selwyn Karp v. First Connecticut Bancorp, Inc. negligence in action under section 14(a) of Securities Exchange Act.  
(Bennett)

---

21-6447 [Briefs](#) CIVIL RIGHTS: Whether district court erred in determining that Defendants possessed reasonable suspicion  
Jonathan Torres v. Nathan Ball and probable cause to conduct traffic stop and for arrest; other issues.  
(Reidinger)

PANEL IV  
Judge Diaz, Judge Thacker, Judge Harris  
Gold Courtroom (Room 348)  
9:30 a.m.

Thursday, March 9, 2023

[LISTEN](#)

Thursday, March 9, 2023

---

22-1290 [Briefs](#) CIVIL: Whether nurses were employees or independent contractors for purposes of FLSA.  
Martin Walsh v. Medical Staffing of America,  
(Jackson)

---

21-2018 [Briefs](#) JURISDICTION: Whether district court's order finding notice period unreasonably short and ordering relief  
Maile Hardcastle v. Mary Hardcastle was appealable; whether district court erred.  
(Jackson)

---

21-1947 [Briefs](#) EMPLOYMENT: Whether the district court erroneously granted Defendants' motions to dismiss Plaintiff's due  
Barbara Smith v. Commissioners of St. Mary's process claims; other issues.  
(Xinis)

---

22-1382 [Briefs](#) CIVIL: Whether district court erred in concluding compensatory damages and jury trial are unavailable in ADA  
Jeffrey Israelitt v. Enterprise Services LLC retaliation claims.  
(Gallagher)

PANEL V  
Judge King, Judge Richardson, Judge Dawson\*  
Tweed Courtroom (Room 414-D)  
9:30 a.m.

Thursday, March 9, 2023

[LISTEN](#)

\*Hon. Joseph Dawson, III, United States District Judge, District of South Carolina

Friday, March 10, 2023

---

21-4556 [Briefs](#)  
US v. Nathan Glover  
(Britt)

SENTENCING: Challenges to enhancement for possession of firearm in connection with another felony, denial of acceptance of responsibility, and imposition of conditions of supervised release. (15 mins.)

---

19-4151 [Briefs](#)  
US v. George Hadden  
(Dever)

SENTENCING: Whether Michigan assault with a dangerous weapon and North Carolina attempted second degree kidnapping are qualifying ACCA predicate convictions.

---

21-4253 [Briefs](#)  
US v. Rico Brown  
(Bell)

CRIMINAL: Whether, following Supreme Court's decision in Wooden, ACCA "occasions clause" question must be presented to the jury; whether failure to present is plain error.

---

22-4237 [Briefs](#)  
US v. Rodney Coby  
(Hazel)

CRIMINAL: Multi-issue challenge to conviction and sentencing, including jury instruction issues, sufficiency of evidence, and applicability of sentencing enhancements.

PANEL I  
Judge Niemeyer, Judge Heytens, Senior Judge Floyd  
Red Courtroom (Room 412)  
8:30 a.m.

Friday, March 10, 2023

[LISTEN](#)



Friday, March 10, 2023

---

21-4687 [Briefs](#)  
US v. Alexander Treisman  
(Osteen)      CRIMINAL: Whether the warrantless entry into, towing of, and associated inventory search of a van violated the Fourth Amendment.

---

22-1463 [Briefs](#)  
Christian Santos Garcia v. Merrick Garland      IMMIGRATION: Whether family-based particular social group is cognizable; imputed political opinion; CAT protection.

---

22-1684 [Briefs](#)  
Darryl Howard v. City of Durham  
(Schroeder)      CIVIL: Multi-issue challenge to grant of summary judgment in favor of law enforcement in sec. 1983 case arising from wrongful conviction; cross appeal.  
Associations: 22-1719

---

21-1850 [Briefs](#)  
Hugo De La O v. Merrick Garland      IMMIGRATION: Whether Petitioners established a nexus between harm feared or experienced and their family membership.

PANEL II  
Judge King, Judge Wynn, Judge Quattlebaum  
Butzner Courtroom 201  
8:30 a.m.

Friday, March 10, 2023

[LISTEN](#)

Friday, March 10, 2023

---

21-2017 [Briefs](#)  
Maryland Shall Issue, Inc. v. Wes Moore  
(Hollander)  
Associations: 21-2053

CONSTITUTIONAL LAW: Second Amendment challenge to Maryland's handgun licensing requirements.

---

21-4438 [Briefs](#)  
US v. Christopher Robertson  
(Novak)

CRIMINAL: Whether COVID-related trial delays violated Speedy Trial Act; denial of motion to suppress; sufficiency of evidence; other issues.

PANEL III  
Judge Agee, Judge Richardson, Senior Judge Keenan  
Blue Courtroom (Room 339)  
8:30 a.m.

Friday, March 10, 2023

[LISTEN](#)

Friday, March 10, 2023

---

22-4258 [Briefs](#) CRIMINAL: Whether placing lien constituted "property damage" under USSG section 2J1.2(b)(1)(B); whether  
US v. Jeffrey Reed garnishment is routine, day-to-day work of IRS; other issues.  
(Faber)

---

22-1381 [Briefs](#) SOCIAL SECURITY. Whether ALJ properly evaluated the medical evidence under the revised regulations. Other  
Brian Pepper v. Commissioner of Social issues. (15 mins.)  
(Currie)

---

22-4162 [Briefs](#) CRIMINAL: Whether district court erred in declining to modify terms of supervised release challenged as  
US v. Windsor Kessler, III improper delegation of authority to probation officer; other issues.  
(Bredar)

---

22-1189 [Briefs](#) EMPLOYMENT: Whether court erroneously denied motion for judgment as a matter of law on unjust  
Mario Amaya v. DGS Construction, LLC enrichment claim; other issues.  
(Chuang)

Associations: 22-1232

PANEL IV  
Judge Wilkinson, Judge Harris, Judge Rushing  
Gold Courtroom (Room 348)  
8:30 a.m.

Friday, March 10, 2023

[LISTEN](#)