

Monday, March 8, 2021

19-1591 [Briefs](#) REHEARING EN BANC
Hernan Flores v. Jeffrey Rosen

20-1495 [Briefs](#) REHEARING EN BANC
Leaders of Beautiful Struggle v. Baltimore
(Bennett)

PANEL I

Chief Judge Gregory
Judge Wilkinson
Judge Niemeyer
Judge Motz
Judge King
Judge Agee
Judge Keenan
Judge Wynn
Judge Diaz
Judge Floyd
Judge Thacker
Judge Harris
Judge Richardson
Judge Quattlebaum
Judge Rushing

Monday, March 8, 2021, PANEL I, 9:30 a.m.

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Tuesday, March 9, 2021

19-0003	Briefs	POSTCONVICTION: Appeal from denial of relief on state habeas corpus challenge to capital sentence imposed following guilty plea.
Mikal Mahdi v. Bryan Stirling (Cain)		
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18-6488	Briefs	POSTCONVICTION: Whether state court rulings upholding exclusion of expert testimony and denying racial animus claim contravened federal law; propriety of procedurally barring ineffective assistance claim.
James Richardson v. Joyce Kornegay (Flanagan)		
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20-1363	Briefs	IMMIGRATION: Whether the Virginia offense of accessory after the fact is an offense relating to obstruction of justice under 8 U.S.C. section 1101(a)(43)(S); related issues.
Jean Pugin v. Robert M. Wilkinson		

PANEL I

Chief Judge Gregory. Judge Agee, Judge Richardson

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Tuesday, March 9, 2021

20-6571 [Briefs](#)
US v. Christopher Lancaster
(Howard)

SENTENCING: Whether district court must apply nonretroactive changes to Sentencing Guidelines when considering motion for sentence reduction under First Step Act.

20-1031 [Briefs](#)
County Bd of Arlington Co. v. Express Scripts
(Trenga)

CIVIL: Whether the district court erred by determining that defendants did not satisfy the "acting under" provision of the federal officer removal statute.

PANEL II

Judge Wilkinson, Judge Niemeyer, Judge Quattlebaum

Tuesday, March 9, 2021, PANEL II, 9:30 a.m.

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Tuesday, March 9, 2021

19-2348 [Briefs](#) CIVIL: Cross-appeals raising multiple issues related to district court's rulings regarding set-off of damage awards, application of Parratt-Hudson doctrine, attorney's fees, other issues.
W. S. v. Cassandra Daniels
(Coggins)
Associations: 19-2349, 19-2350, 19-2376

20-1143 [Briefs](#) INSURANCE: Whether Appellant had standing to bring claims related to breach of contract and fiduciary duty by captive insurer; whether discovery was necessary.
Episcopal Church in SC v. Church Insurance
(Gergel)

19-7771 [Briefs](#) CRIMINAL: Whether reinstatement of vacated 18 U.S.C. section 924(c) counts based on different predicates violates the Double Jeopardy Clause.
US v. Cordarrell Johnson
(Hudson)

20-1290 [Briefs](#) CIVIL RIGHTS: Challenge by court clerks to district court's ruling in favor of news service regarding its right of contemporaneous access to new civil court complaints.
Courthouse News Service v. George Schaefer
Associations: 20-1386

PANEL III
Judge Motz, Judge King, Judge Wynn

Tuesday, March 9, 2021, PANEL III, 2:00 p.m.

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19-2415	Briefs	SOCIAL SECURITY: Propriety of ALJ's conclusion that claimant did not have a severe medical impairment. 15-minute case.
Kimberly Triplett v. Andrew Saul (Lauck)		
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19-1015	Briefs	CIVIL: Whether Plaintiff was frequently, regularly, and proximately exposed to asbestos attributable to Defendant.
Darrell Connor v. Covil Corporation (Biggs)		
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19-7369	Briefs	POSTCONVICTION: Validity of section 924(c) conviction for brandishing firearms during and in relation to conspiracy to commit Hobbs Act robbery and drug trafficking crime.
US v. Marcus Crawley (Payne)		
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20-1121	Briefs	TORT: Whether personal injury claim based on soundwaves falls under exception to waiver of sovereign immunity under Federal Tort Claims Act section 2680(h); other issues.
Andrew Billups, III v. US (Novak)		

PANEL IV

Judge Diaz, Judge Thacker, and Judge Harris

Tuesday, March 9, 2021, PANEL IV, 2:00 p.m.

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Wednesday, March 10, 2021

20-1420 [Briefs](#) CIVIL RIGHTS: Whether district court erred by granting summary judgment in favor of Defendant sheriff in terminated
Michael Billioni v. Bruce Bryant officer's First Amendment action.
(Childs)

20-4159 [Briefs](#) CRIMINAL: Whether a violation of 8 U.S.C. section 1357 implicates Fourth Amendment interests; whether widespread
US v. Marcio Santos-Portillo statutory violations permit use of court's supervisory authority to suppress evidence.
(Howard)

PANEL I
Judge Wilkinson, Judge Agee Judge Floyd

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20-4104	Briefs	CRIMINAL: Whether vehicle search was valid as a search incident to arrest or under the automobile exception.
US v. David Garcia (Reidinger)		
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20-1552	Briefs	CIVIL RIGHTS: Multiple issues arising from district court's grant of defendants' Rule 59(e) motions and grant of summary judgment to defendants on plaintiffs' malicious prosecution claims.
Michael Livingston v. SC Dept. of Social Services (Childs)		
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20-6719	Briefs	POSTCONVICTION: Whether Sixth Circuit's actual innocence requirement for section 2255(e) savings clause is substantive law applicable to section 2241 petitioner convicted in that circuit; other issues.
Patrick Marlowe v. Warden, FCI Hazelton (Bailey)		
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20-7350	Briefs	POSTCONVICTION: Whether district court abused its discretion in denying First Step Act motion for compassionate release on the sole basis that the section 3553(a) factors cautioned against relief without addressing arguments favoring relief.
US v. Anthony High (Boyle)		

PANEL II

Judge Niemeyer, Judge Motz, Judge Rushing

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20-1079 [Briefs](#)
Daniel Patrick v. Robert M. Wilkinson
(Boyle)
CIVIL: Challenge to ruling dismissing for lack of standing plaintiff's claims challenging President's use of Federal Vacancies Reform Act to designate employee as acting officer; other issues.

19-2384 [Briefs](#)
Robert Schmidt v. FCI Enterprises LLC
(Alston)
Associations: 20-1076
CIVIL: Whether district court erred in its interpretation of Worker Adjustment and Retraining Notification Act's definitions of plant closing, single site of employment, and employer.

19-1546 [Briefs](#)
Stephanie Morris v. Lincoln National Life Ins.
(Trenga)
ERISA: Whether the plan administrator's decision denying benefits was reasonable and supported by substantial evidence.

20-1547 [Briefs](#)
Michael Walker v. B. Donahoe
(Chambers)
CIVIL RIGHTS: Challenge to ruling that officer had reasonable suspicion, under totality of the circumstances, to detain appellant, who was openly carrying an AR-15 rifle.

PANEL III

Judge King, Judge Keenan, Judge Richardson

Wednesday, March 10, 2021, PANEL III, 2:00 p.m.

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Wednesday, March 10, 2021

20-1368 [Briefs](#)
Svetlana Lokhova v. Stefan Halper
(Brinkema)
Associations: 20-1437

TORT: Whether district court erred by dismissing defamation claims as time-barred based on single publication rule; other issues; cross-appeal from denial of sanctions.

19-4556 [Briefs](#)
US v. Timothy Hardin
(Bell)

SENTENCING: Whether Tennessee statutory rape qualifies as predicate offense under 18 U.S.C. section 2252A(b)(1); sufficiency of explanation of term and conditions of supervised release.

PANEL IV

Judge Wynn, Judge Thacker, Judge Quattlebaum

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Thursday, March 11, 2021

19-1668 [Briefs](#) CIVIL: Whether district court erred, at summary judgment, in equitably tolling statute of limitations applicable to Somali
Farhan Warfaa v. Yusuf Ali national's Torture Victim Protection Act claims.
(Brinkema)
Associations: 19-1675

20-1393 [Briefs](#) IMMIGRATION: Whether substantial evidence supports the agency's adverse credibility determination.
Douglas Leke v. Robert M. Wilkinson

20-1411 [Briefs](#) TORT: Multiple issues on appeal arising from jury verdict for plaintiff in wrongful death products liability action.
Andrea Sardis v. Overhead Door Corporation
(Gibney)

20-1409 [Briefs](#) CIVIL: Whether district court erred by concluding that state waived its sovereign immunity by accepting federal funds.
Maxwell Kadel v. N.C. State Health Plan
(Biggs)

PANEL I
Chief Judge Gregory, Judge Agee, Judge Diaz

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Thursday, March 11, 2021

20-4129 [Briefs](#)
US v. Philip Friend
(Hudson)

CRIMINAL: Reasonableness of 52-year sentence imposed on remand upon defendant who was fifteen when he committed the offenses.

20-1342 [Briefs](#)
Jane DiCocco v. Jeffrey Rosen
(Gibney)

EMPLOYMENT: Whether the plaintiff has standing to pursue discrimination claims predicated on the Federal Bureau of Prisons' physical abilities test.

PANEL II

Judge Wilkinson, Judge Floyd, Judge Richardson

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19-1954	Briefs	IMMIGRATION: Whether substantial evidence supports the finding that the Petitioner's fear of persecution was not on account of her family ties; related issues.
Sonia Perez Vasquez v. Robert M. Wilkinson		
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20-1265	Briefs	INSURANCE: Whether district court erred in granting summary judgment for insurer on claims for bad faith refusal to settle under South Carolina law.
Columbia Insurance Company v. Christopher (Gergel)		
Associations: 20-1266, 20-1267		
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20-2176	Briefs	CIVIL: Whether the district court erred by dismissing for lack of standing plaintiffs hospital associations' Takings Clause and preemption claims.
Va. Hospital & Healthcare v. Karen Kimsey (Hudson)		

PANEL III

Judge King, Judge Wynn, Judge Harris

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Thursday, March 11, 2021

20-1001	Briefs	CIVIL RIGHTS: Propriety of district court's rulings that charter school's uniform policy requiring girls to wear skirts violated the Equal Protection Clause but not Title IX.
Bonnie Peltier v. Charter Day School, Inc. (Howard)		
Associations: 20-1023		
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20-1544	Briefs	ADMINISTRATIVE LAW: Challenge to issuance of permit by U.S. Army Corps of Engineers to Maryland Transit Authority pursuant to Section 404 of the Clean Water Act.
Friends of the Capital C.T. v. United States (Bredar)		
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20-1298	Briefs	TORT: Cross-appeals from district court's order dismissing claims of defamation by elected public official and denying defendant's request for attorney's fees.
Justin Fairfax v. CBS Corporation (Trenga)		
Associations: 20-1299		

PANEL IV

Judge Keenan, Judge Quattlebaum, Judge Rushing

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Friday, March 12, 2021

20-6060 [Briefs](#)
US v. Samuel Kerr, II
(Flanagan)

POSTCONVICTION: When appeal period begins to run in section 2255 proceeding when order grants all requested relief but resentencing on unchallenged count has not occurred.

20-4182 [Briefs](#)
US v. Gustavo Perez-Paz
(Hudson)

CRIMINAL: Whether 8 U.S.C. section 1326 is constitutional; related issues.

19-4857 [Briefs](#)
US v. Marcus Moody
(Doumar)

CRIMINAL: Sufficiency of the evidence to support drug and firearm convictions; propriety of jury instructions under Rosemond and Rehaif.

Associations: 19-4869

19-7861 [Briefs](#)
US v. Keyon Paylor
(Hollander)

POSTCONVICTION: Whether district court erred in determining that petitioner failed to establish that arresting officer's public corruption convictions rendered his plea involuntary.

PANEL I

Chief Judge Gregory, Judge Floyd, Judge Thacker

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Friday, March 12, 2021

20-4162 [Briefs](#)
US v. Amar Abed
(Urbanski)

SENTENCING: Constitutionality of 360-month upward variant sentence selected after vacating defendant's section 924(c) conviction and the related 30-year mandatory, consecutive sentence; procedural reasonableness of sentence.

20-4248 [Briefs](#)
US v. Gerald Boutcher
(Brinkema)

CRIMINAL: Whether restitution and forfeiture orders exceed district court's authority; whether waiver precludes appeal.

20-6706 [Briefs](#)
US v. Jon Frank
(Brinkema)

ERISA: Whether ERISA-protected assets can be garnished by the government to satisfy a restitution order.

PANEL II

Judge Niemeyer, Judge Keenan, Judge Harris

Friday, March 12, 2021, PANEL II, 9:30 a.m.

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Friday, March 12, 2021

20-1191	Briefs	CIVIL: Whether Wikimedia established a genuine issue of material fact as to its standing to challenge National Security Agency's Upstream surveillance program; state-secrets privilege.
Wikimedia Foundation v. NSA/CSS (Ellis)		
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20-4126	Briefs	CRIMINAL: Whether section 922(g)(3) is void for vagueness on its face; whether facial challenge permitted in absence of as-applied challenge; application of USSG section 3A1.4 terrorism enhancement.
US v. Christopher Hasson (Hazel)		
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20-4199	Briefs	SENTENCING: Whether unknowing distribution of child pornography precludes application of a two-level reduction under U.S. Sentencing Guidelines Manual section 2G2.2(b)(1).
US v. Kelly Miltier (Smith)		

PANEL III
Judge Motz, Judge Diaz, Judge Rushing

Friday, March 12, 2021, PANEL III, 2:00 p.m.

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