

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (03/20/2012 - 03/23/2012 Session)

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11-0003 [Briefs](#)  
US v. Chadrick Fulks  
( Anderson )

HABEAS CORPUS: Numerous issues arising out of federal capital murder conviction and sentencing.

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11-1538 [Briefs](#)  
Albert Robertson v. Sea Pines Real Estate  
( Blatt )

ANTITRUST: Whether section 1 of the Sherman Act applies to the challenged multiple listing service (MLS) rules; other issues.

Associations: 11-1539, 11-1540, 11-1541

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10-7598 [Briefs](#)  
Donald Barbe v. Thomas McBride  
( Bailey )

HABEAS CORPUS: Whether state court constructively amended indictment in violation of due process; other issues.

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11-2034 [Briefs](#)  
Tanya Johnson v. William Zimmer  
( Leonard )

BANKRUPTCY: Did the bankruptcy court apply the correct meaning of "household" in determining debtor's household size; other issues.

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

Tuesday, March 20, 2012

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11-4379 [Briefs](#)

US v. Tommy Young, Sr.  
( Johnston )

Associations: 11-4380

CRIMINAL: Whether district court erred in denying motion to suppress; other issues.

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09-5222 [Briefs](#)

US v. Arturo Hernandez-Frias  
( Payne )

SENTENCING: Whether district court correctly assessed criminal history points and provided a sufficient statement of reasons for the sentence imposed.

PANEL II  
Butzner En Banc Courtroom (Room 201)  
9:30 a.m.

Tuesday, March 20, 2012

REVD 3/16/12

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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11-1957	<a href="#">Briefs</a>	CIVIL RIGHTS: Did allegations that officials made threatening and coercive statements in announcing state policy to prevent workers from joining unions state a cause of action.
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11-4372	<a href="#">Briefs</a>	SENTENCING: Whether district court abused its discretion by imposing special condition of supervised release related to financial matters.
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11-4121	<a href="#">Briefs</a>	CRIMINAL: Whether prosecution for violation of 18 U.S.C. Section 844(i) (2006) was an unconstitutional exercise of Congress authority under the Commerce Clause in light Gonzales v. Raich, 545 U.S. 1 (2005).

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PANEL III  
Tan Courtroom (Room 223)  
9:30 a.m.

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REVD 3/16/12

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11-1215	<a href="#">Briefs</a>	ISSUE: Whether district court erred in denying motion to compel arbitration.
Dan Ryan Builders, Inc. v. Norman Nelson ( Bailey )		
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11-1191	<a href="#">Briefs</a>	CIVIL PROCEDURE/ADA: Whether appellant alleged sufficient facts to confer standing; related issues.
Gilroy Daniels, Sr. v. Arcade, L.P. ( Bennett )		
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11-7196	<a href="#">Briefs</a>	COMPETENCY: Whether defendant found incompetent to stand trial must be released upon expiration of competency restoration period in 18 U.S.C. 4241 unless prison authorities seek commitment under 18 U.S.C. 4246.
US v. Michael Locklear ( Boyle )		
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11-1763	<a href="#">Briefs</a>	IMMIGRATION LAW: Whether the district court properly interpreted the terms of 8 U.S.C. section 1226(c)(1) regarding mandatory detention; whether BIA's interpretation is entitled to deference.
Hosh Hosh v. Enrique Lucero ( Trenga )		

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

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10-4456 US v. Opio Moore ( Titus )	<a href="#">Briefs</a>	CRIMINAL: Whether vehicle stop was supported by probable cause; propriety of districtcourt's ruling with respect to subpoenas duces tecum; propriety of life sentence.
10-7475 US v. Michael Lewis ( Bailey )	<a href="#">Briefs</a>	CRIMINAL: Whether Lewis received ineffective assistance of counsel and whether his right to counsel was violated.
11-1448 Robert Moss v. Spartanburg County School ( Herlong )	<a href="#">Briefs</a>	CONSTITUTIONAL LAW: Whether school district's policies violate the Establishment Clause; standing issue.
11-1375 Gwyniece Hutchins v. U.S. Dept. of Labor ( Childs )	<a href="#">Briefs</a>	CIVIL: Whether the district court erred in concluding that the term person used in the Federal Employees Compensation Act, 5 U.S.C. section 8132 (2006), includes a municipality.

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

Tuesday, March 20, 2012

REVD 2/24/12

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11-1399	<a href="#">Briefs</a>	CIVIL RIGHTS: Whether the district court abused its discretion in the amount of attorneys fees awarded under 42 U.S.C. section 1988.
Reaching Hearts International, v. Prince ( Titus )		
11-4042	<a href="#">Briefs</a>	CRIMINAL: Whether the district court properly calculated Nwankwoala's Guidelines range using the default base offense level in USSG section 2M5.2 (2009); whether the sentence is substantively reasonable.
US v. Emenike Nwankwoala ( Messitte )		
11-2210	<a href="#">Briefs</a>	ENVIRONMENTAL LAW: Whether the North Carolina Department of Transportation and Federal Highway Administration abused their discretion or violated the National Environmental Policy Act in approving the Monroe Connector/Bypass.
North Carolina Wildlife v. North Carolina ( Dever )		
10-2230	<a href="#">Briefs</a>	TAX LAW: Whether defendant was judicially or collaterally estopped from contending that failure to report was not willful; other issues.
US v. J. Williams ( O'Grady )		

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

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11-1667	<a href="#">Briefs</a>	TAX LAW: Did the tax court err in holding that taxpayer had unreported income from conversion of employer welfare benefit plan and from other benefits.
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11-4398	<a href="#">Briefs</a>	CRIMINAL: Whether district court abused its discretion in admitting evidence; denial of motion for acquittal; refusal to give jury instructions; enhancement for obstruction of justice.
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11-4391	<a href="#">Briefs</a>	CRIMINAL LAW: Whether possession of a weapon in prison qualifies as a crime of violence for purposes of residual clause of the Armed Career Criminal Act.
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11-4442	<a href="#">Briefs</a>	CRIMINAL: Whether the district court erred in rejecting Appellants Second Amendment challenges to 18 U.S.C. section 922(g)(1); other issues.

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PANEL II  
Butzner En Banc Courtroom (Room 201)  
9:30 a.m.

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10-4999	<a href="#">Briefs</a>	SENTENCING GUIDELINES: Whether vulnerable victim adjustment under USSG Section 3A1.1(b)(1) was clearly erroneous.
US v. Paulette Etoty ( Blake )		

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09-4802	<a href="#">Briefs</a>	CRIMINAL: Sufficiency of the evidence to support convictions for conspiracy and use of a communication facility in the commission of a drug offense; propriety of 120-month sentence.
US v. Perry Shippy ( Thornburg )		

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11-1906	<a href="#">Briefs</a>	BANKRUPTCY: Challenge to district court's affirmance of bankruptcy court's determination that it lacked jurisdiction over debtor's motion to enforce sanctions for violation of the automatic stay.
Noreen Renier v. John Merrell ( Moon )		

PANEL III  
Tan Courtroom (Room 223)  
8:30 a.m.

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11-4531	<a href="#">Briefs</a>	CRIMINAL LAW: Whether loss of government benefits is a collateral consequence of guilty plea; other issues.
US v. Lester Nicholson ( Floyd )		
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11-1520	<a href="#">Briefs</a>	CIVIL: Standing; whether action constitutes collateral attack on bankruptcy proceeding; procedural issues.
Blake Van Leer, II v. Deutsche Bank Securities, ( Bredar )		
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11-1217	<a href="#">Briefs</a>	CIVIL: Whether automobile manufacture's conduct was coercive under Maryland Transportation Code; contractual issues.
Jaguar Land Rover North v. Manhattan ( Chasanow )		
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11-1226	<a href="#">Briefs</a>	CIVIL: Whether the district court properly granted the Defendants motion to dismiss Plaintiffs First Amendment claims relating to the defendant locality's sign ordinance; related issues.
Wag More Dogs, LLC v. Melinda Artman ( Brinkema )		

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

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11-1760	<a href="#">Briefs</a>	CONSTITUTIONAL LAW: Whether Federal Election Commission's regulatory definition of "expressly advocating" is constitutional; issues regarding determination of whether an entity is a "political committee."
The Real Truth About Obama Inc v. Federal ( Spencer )		
11-1324	<a href="#">Briefs</a>	CONSTITUTIONAL LAW: Whether complaint sufficiently states a claim that parole board officials violated plaintiffs' due process rights or violated the ex post facto clause.
Sharon Burnette v. Helen Fahey ( Payne )		
10-5332	<a href="#">Briefs</a>	SENTENCING: Whether district court abused its discretion in sentencing Mudlock; other issues.
US v. John Mudlock ( Osteen )		
11-1234	<a href="#">Briefs</a>	UNIFORM FRAUDULENT TRANSFER ACT: Challenge to district court rulings in action under the West Virginia Uniform Fraudulent Transfer Act; attorney's fees issue.
Joseph Larosa v. Virgil Larosa ( Stamp )		
Associations: 11-1306		PANEL V Gold Courtroom (Room 348) 9:30 a.m.
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11-1350	<a href="#">Briefs</a>	CIVIL: Whether federal contract employee was acting within scope of employment at time of fatal vehicle collision; other issues.
Stacia Kerns v. US ( Blake )		

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11-1434	<a href="#">Briefs</a>	ERISA: Whether administrator of disability plan was required to give substantial or meaningful weight to social security disability award.
Ricky Dickens v. Aetna Life Insurance Company ( Johnston )		

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11-4268	<a href="#">Briefs</a>	CRIMINAL: Whether police-citizen encounter constituted an unreasonable seizure for purposes of the Fourth Amendment.
US v. Frederick Jones ( Payne )		

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11-6707	<a href="#">Briefs</a>	PRISON LITIGATION ACT: Whether dismissal of civil action as frivolous or malicious or for failure to state a claim counts as strike if appeal is pending or appeal period has not expired.
Jonathan Henslee v. Alvin Keller ( Conrad )		

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

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11-1636	<a href="#">Briefs</a>	TAX LAW: Whether the tax court erred in determining that the shareholders are not liable as transferees for corporation's unpaid taxes.
Albert Starnes v. Commissioner, IRS		
Associations: 11-1714, 11-1706, 11-1712		

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10-7240	<a href="#">Briefs</a>	HABEAS CORPUS: Whether the district court erred in finding that appellant's 28 U.S.C. section 2254 petition was not timely filed within the meaning of 28 U.S.C section 2244 (d) (2).
Hector Escalante v. Bryan Watson ( Wilson )		

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11-6919	<a href="#">Briefs</a>	HABEAS CORPUS: Whether sex offender is "in custody" within the meaning of the habeas corpus statute based upon restraints on liberty after release from prison.
Eric Wilson v. W. Flaherty ( Gibney )		

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10-2436	<a href="#">Briefs</a>	CIVIL: Whether the district court erred in dismissing the 42 U.S.C. Section 1983 (2006) complaint on the ground that Appellants could not state a viable claim under state created danger theory.
Virginia Slaughter v. Mayor & City Council ( Legg )		

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PANEL II  
Butzner En Banc Courtroom (Room 201)  
9:30 a.m.

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11-4724 [Briefs](#)  
US v. Richard Powell, Jr.  
( Keeley )

CRIMINAL: Court's failure to instruct jury regarding advice of counsel, materiality as element of 18 U.S.C. section 1519 offense, ownership of limousines; lack of mitigating role adjustment; prosecutorial misconduct; ineffective assistance.

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09-4668 [Briefs](#)  
US v. James Dinkins  
( Motz )

CRIMINAL: Whether government's reasons for striking juror were pretextual; whether court erred in seating an anonymous jury; other issues.

Associations: 09-4669, 09-4755

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11-4624 [Briefs](#)  
US v. Jordan Laudermilt  
( Stamp )

FOURTH AMENDMENT: Whether the district court erred in finding protective sweep exceeded permissible scope, suppressing firearm.

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10-5164 [Briefs](#)  
US v. Jorge Rodriguez  
( Osteen )

CRIMINAL: Whether defendants guilty plea was knowing and voluntary.

PANEL III  
Tan Courtroom (Room 223)  
9:30 a.m. \*\*

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11-1747	<a href="#">Briefs</a>	BANKRUPTCY LAW: Whether the 2005 amendments to the Bankruptcy Code repealed the absolute priority rule for individual debtors proceeding under Chapter 11.
In Re: Ganess Maharaj ( Mitchell )		
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08-5174	<a href="#">Briefs</a>	CRIMINAL: Whether district court properly admitted evidence under Fed. R. Evid. 404(b), admission of expert testimony, sufficiency of evidence, admission of appellant's statements to cellmate.
US v. Israel Palacios ( Chasanow )		
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11-1659	<a href="#">Briefs</a>	CIVIL RIGHTS: Whether retaliatory discharge claim is actionable under section 1983; whether legislative immunity applies; whether abusive discharge claim under Maryland law is actionable.
Kensington Volunteer Fire v. Montgomery ( Motz )		
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10-4482	<a href="#">Briefs</a>	CRIMINAL LAW: Numerous challenges to pre-trial, trial, and post-trial rulings.
US v. Troy Titus ( Jackson )		

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

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11-1111	<a href="#">Briefs</a>	CONSTITUTIONAL LAW: Whether district court erred in ruling that city ordinance requiring pregnancy resource center to post sign violated the First Amendment; other issues.
Greater Baltimore Center v. Mayor and City ( Garbis )		
Associations: 11-1185		

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11-1314	<a href="#">Briefs</a>	CONSTITUTIONAL LAW: Whether district court's ruling regarding county resolution requiring pregnancy resource centers to post sign was in error.
Centro Tepeyac v. Montgomery County ( Chasanow )		
Associations: 11-1336		

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11-7234	<a href="#">Briefs</a>	HABEAS CORPUS: Whether claim is time-barred; whether state court decision regarding due process and ex post facto claims is contrary to federal law.
Larry Waddell v. Department of Correction ( Cogburn )		

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10-5234	<a href="#">Briefs</a>	SENTENCING: Challenge to sufficiency of sentence reduction under Fed. R. Crim. P. 35(b).
US v. Darrin Davis ( Wooten )		

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PANEL I  
Red Courtroom (Room 412)  
8:30 a.m.

Friday, March 23, 2012

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11-6301	<a href="#">Briefs</a>	CRIMINAL: Validity of appeal waiver; whether defendant is entitled to specific performance of plea agreement; whether West Virginia breaking and entering conviction is an ACCA violent felony; other issues.
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11-4144	<a href="#">Briefs</a>	CRIMINAL LAW: Propriety of consideration of factors set forth at 18 U.S.C. section 3553(a)(2)(A) when revoking supervised release and imposing sentence.
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11-4495	<a href="#">Briefs</a>	SENTENCING GUIDELINES: Whether cross reference under USSG Section 2K2.1(c)(1)(A) to robbery guideline was error.
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10-4889	<a href="#">Briefs</a>	CRIMINAL LAW: Fourth Amendment and other issues related to conviction and sentence for firearm violation.
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PANEL II  
Butzner En Banc Courtroom (Room 201)  
8:30 a.m.

Friday, March 23, 2012