

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (3/21/2016 - 3/24/2016 Session)
(AFTERNOON SESSION)

15-1486 [Briefs](#)
Se.H. v. Bd of Ed of Anne Arundel Cnty

DISABILITY DISCRIMINATION: Issues related to grant of summary judgment on student's discrimination claims under IDEA, ADA, and Rehabilitation Act.

15-1364 [Briefs](#)
Sara Fox v. Leland Volunteer Fire/Rescue

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

PANEL I
Red Courtroom (Room 412)**(Afternoon Session)**
2:30 p.m.

Monday, March 21, 2016

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (3/21/2016 - 3/24/2016 Session)

15-0001 [Briefs](#) POST-CONVICTION: Appeal from district court's denial of habeas corpus challenge to state capital convictions and sentence of death.
William Morva v. David Zook
(Urbanski)

15-1124 [Briefs](#) CIVIL: Whether the district court erred in dismissing appellant's retaliation claims under the False Claims Act; other issues.
Sharel Farmer v. Eagle Systems and Ser
(Britt)

15-1344 [Briefs](#) ERISA: Whether plan administrator abused its discretion in denying Henderson's claim for long-term disability benefits.
Rhonda Henderson v. Hartford Life
(Herlong)

15-1365 [Briefs](#) IMMIGRATION: Whether Immigration Judge erred in denying motion in limine; whether admission of ex-wife's statement violated due process.
Bassam Hanna v. Loretta Lynch

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

Tuesday, March 22, 2016

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (3/21/2016 - 3/24/2016 Session)

15-6568 [Briefs](#)
Lewis Duckett v. Marcia Fuller
(Childs)

CIVIL: Whether district court erred in ruling Appellant was in privity with plaintiff in prior Eighth Amendment litigation for res judicata purposes.

15-1434 [Briefs](#)
William Hanback v. DRHI, Incorporated
(Ellis)

CONTRACT: Whether district court erred in concluding that statute of limitations for breach of contract claim was triggered upon 2007 redevelopment plan approval.

15-1384 [Briefs](#)
Jotaynun Lee v. Todd Bevington
(Payne)

CIVIL RIGHTS: Whether a genuine issue of material fact existed as to reasonable use of deadly force and qualified immunity.

15-6616 [Briefs](#)
Richard Nicolas v. Maryland Attorney Gen
(Bennett)

POST-CONVICTION: Whether district court committed clear error in determinations regarding favorability and materiality components of Brady v. Maryland test.

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

Tuesday, March 22, 2016

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (3/22/2016 - 3/24/2016 Session)

14-2135	Briefs	CIVIL: Whether summary judgment in favor of defendants was proper after admissions requested by defendants were deemed admitted.
Estate of Wayne A. Jones v. City of Martinsburg (Groh)		
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15-1007	Briefs	ANTITRUST: Whether appellant demonstrated, in a manner sufficient to survive summary judgment, that appellees violated Section 1 of the Sherman Antitrust Act.
Yvonne Petrie v. Virginia Board of Medicine (Hilton)		
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15-6050	Briefs	CIVIL RIGHTS: Whether appellant's right to practice his religion was violated; related issues.
Jean Germain v. Bobby Shearin (Motz)		
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15-1473	Briefs	CIVIL: Whether district court properly granted motion to dismiss; Title IX claim; other issues.
Lisa Kerr v. Marshall University Board (Johnston)		

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

Tuesday, March 22, 2016

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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15-1441 [Briefs](#) CIVIL: Whether plaintiffs' action is barred by the statute of limitations under the Utah Product Liability Act.
Brenda Robinson v. Boston Scientific
(Goodwin)

15-1273 [Briefs](#) EMPLOYMENT: Whether appellant needed to exhaust administrative remedies under 49 C.F.R. section 391.47
John Lisotto v. New Prime Incorporated
(Lewis)
where medical review officer disqualified appellant for employment.

15-1302 [Briefs](#) BLACK LUNG: Whether district court applied correct legal standard for rebuttal of 15-year presumption; whether
Consolidation Coal Co. v. Everett Galusky
expert opinions were contrary to Act or regulations.

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

Tuesday, March 22, 2016

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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14-1601 [Briefs](#)
Karen Greene v. Harris Corporation
(Garbis)

EMPLOYMENT: Whether Harris Corp. was Greene's joint employer; other issues.

13-4349 [Briefs](#)
US v. Stephen McFadden
(Conrad)

CRIMINAL: Whether error in intent instruction requires new trial; harmless error review.

14-4795 [Briefs](#)
US v. Robert Fitzgerald
(Russell)

CRIMINAL: Whether government's silence at guilty plea hearing can satisfy consent requirement under Fed. R. Crim. P. 11(a)(2) for conditional plea.

14-4847 [Briefs](#)
US v. Russell Linney
(Voorhees)

SENTENCING: Whether burglary offenses were committed on occasions different from one another for Armed Career Criminal Act purposes; other issues.

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

Tuesday, March 22, 2016

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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15-2471	Briefs	HAGUE CONVENTION: Whether district court erred in applying "well settled" affirmative defense under Article 12 of the Hague Convention.
Fernando Alcala v. Claudia Hernandez (Harwell)		
Associations: 15-2507		
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15-1993	Briefs	HABEAS: Whether child's constitutional rights are violated by his continued custody after being designated an "Unaccompanied Alien Child."
D.B. as next friend to R.M.B. v. Darryl Poston (Cacheris)		
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15-1607	Briefs	IMMIGRATION: Whether substantial evidence supports Board's conclusion that IJ clearly erred in granting petitioner relief under Convention Against Torture.
Francois Lukunku-Tshibangu v. Loretta Lynch		
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15-1557	Briefs	EMPLOYMENT: Whether the district court erred in granting summary judgment to former employer on employee's retaliation claim.
Dorothy Buchhagen v. ICF International, Inc. (Motz)		

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

Tuesday, March 22, 2016

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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(AFTERNOON SESSION)

15-1360 [Briefs](#)
US v. Finn Batato

CIVIL FORFEITURE: Whether district court erred in asserting in rem jurisdiction over foreign assets or in its application of the fugitive disentitlement statute; standing; other issues.

PANEL I
Red Courtroom (Room 412)**(Afternoon Session)**
1:15 p.m.

Tuesday, March 22, 2016

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (3/22/2016 - 3/24/2016 Session)

12-4659 [Briefs](#) REHEARING EN BANC
US v. Aaron Graham
(Bennett)
Associations: 12-4825

14-6851 [Briefs](#) REHEARING EN BANC
US v. Raymond Surratt, Jr.
(Conrad)

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

Wednesday, March 23, 2016

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (3/22/2016 - 3/24/2016 Session)

15-1608	Briefs	CIVIL: Whether the district court appropriately upheld the IRS's withholding of certain documents under the Freedom of Information Act.
Solers, Incorporated v. IRS (Brinkema)		
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15-1338	Briefs	CIVIL: Whether West Virginia civil conspiracy cause of action can arise from violation of the Uniform Fraudulent Transfer Act; other issues.
Martin Sheehan v. Allen Saoud (Keeley)		
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15-1505	Briefs	BANKRUPTCY: Whether inclusion of mortgage note's original non-default interest rate in Chapter 13 Plan impermissibly modified terms of note.
William Anderson, Jr. v. Wayne Hancock (Flanagan)		
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15-1947	Briefs	EMPLOYMENT: Whether EEOC may seek enforcement of subpoena to investigate discrimination charge by illegal alien.
EEOC v. Maritime Autowash, Inc. (Russell)		

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

Thursday, March 24, 2016

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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14-2375 [Briefs](#)
John Vannoy v. Federal Reserve Bank
(Gibney)

EMPLOYMENT: Whether district court correctly granted summary judgment on ADA failure to accommodate and FMLA leave claims; other issues.

15-4096 [Briefs](#)
US v. Desmond White
(Johnston)

CRIMINAL: Whether Johnson challenge to Armed Career Criminal Act sentence, first raised in supplemental brief, is waived; whether W. Va. Code section 31-3-11 is divisible.

15-4032 [Briefs](#)
US v. W. Wayne Perry, Jr.
(Davis)

CRIMINAL: Whether district court correctly denied defendants' motions for new trial and for judgments of acquittal; other issues.

Associations: 15-4050

14-4866 [Briefs](#)
US v. Alan Barnett
(Whitney)

CRIMINAL: Admission of code word testimony; sufficiency of the evidence for RICO conspiracy; use of conspiracy to commit murder cross-reference at sentencing.

Associations: 14-4885

PANEL II
Butzner Courtroom 201
8:30 a.m.

Thursday, March 24, 2016

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15-4288 [Briefs](#) CRIMINAL: Whether reasonable suspicion existed to support law enforcement's seizure of mail parcel; other
US v. Whitney Kent issues.
(Johnston)

14-1944 [Briefs](#) INSURANCE: Whether insurer must defend electronic records storage company on claims that confidential
Travelers Indemnity Company v. Portal medical records were made available on the Internet.
(Lee)

14-2351 [Briefs](#) CIVIL: Whether covenant not to compete and confidentiality agreements were valid; factual dispute regarding
RLM Comm., Inc. v. Amy E. Tuschen misappropriation of trade secrets; other issues.
(Flanagan)

15-1175 [Briefs](#) IMMIGRATION: Whether the Board abused its discretion in denying motion under 8 C.F.R. section 1208.16(e) to
Daniel Shantu v. Loretta Lynch reconsider discretionary denial of asylum.

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

Thursday, March 24, 2016

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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15-4102 [Briefs](#)
US v. Osmin Alfaro
(Grimm)

SENTENCING: Whether Maryland conviction for third degree sexual offense is "forcible sex offense" and "crime of violence" under USSG section 2L1.2(b)(1)(A).

15-1735 [Briefs](#)
Leopold Munyakazi v. Loretta Lynch

IMMIGRATION: Whether substantial evidence supports application of the persecutor bar and denial of relief under Convention Against Torture.

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

Thursday, March 24, 2016

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14-4790 [Briefs](#)
US v. Thomas Kimmel
(Dever)

SENTENCING: Whether district court clearly erred in applying three-level enhancement for defendant's role as manager or supervisor in conspiracy.

14-4533 [Briefs](#)
US v. Ezekiel Donja Gardner
(Fox)

CRIMINAL: Whether defendant's statements were taken in violation of Miranda; whether N.C. common law robbery convictions qualify as violent felonies under the ACCA.

14-4959 [Briefs](#)
US v. Ennis Billups
(Osteen)

CRIMINAL: Whether, under Johnson v. United States, 135 S. Ct. 2551 (2015) district court plainly erred in treating N.C. common-law robbery convictions as violent felonies.

15-1331 [Briefs](#)
Carla Calobrisi v. Booz Allen Hamilton, Inc.
(Trenga)

EMPLOYMENT: Whether the district court erred in granting summary judgment to former employer on employee's age and sex discrimination claims; other issues.

Associations: 15-1399

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

Thursday, March 24, 2016