

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (10/23/2020 - 11/2/2020 Session)
Friday, October 23, 2020

19-1847 [Briefs](#)
Flexi-Van Leasing, Inc. v. The Travelers
(Norton)

INSURANCE: Whether conflict of law issue can be resolved via judicial admission; whether conflict of interest existed between insured and attorney paid for by insurer.

19-1678 [Briefs](#)
Humane Society of the US v. US Fish and
(O'Grady)

CIVIL: Whether United States Fish and Wildlife Service must proactively post certain documents under eFOIA; other issues.

PANEL I
Judge Thacker, Judge Quattlebaum, and Judge Gallagher*
9:30 a.m.

Friday, October 23, 2020

[LISTEN](#)

Hon. Stephanie A. Gallagher, United States District Judge, District of Maryland

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (10/23/2020 - 11/2/2020 Session)
Monday, October 26, 2020

18-2183 [Briefs](#)
Belmora LLC v. Bayer Consumer Care AG
(Hilton)
Associations: 18-2232

TRADEMARK: Cross-appeals from order dismissing Lanham Act claims as barred by statute of limitations, upholding Trademark Trial and Appeal Board's cancellation of trademark; other issues.

19-2069 [Briefs](#)
William Lins v. US
(Hollander)

TORT: Whether the FTCA's discretionary function exception bars Lins' claims. Other issues.

19-2042 [Briefs](#)
Liubov Skibo v. Greer Laboratories, Inc.
(Bell)

CIVIL: Whether district court erred by granting summary judgment to defendant on action under False Claims Act for lack of evidence of required scienter.

19-2085 [Briefs](#)
Sandra Peters v. Aetna Incorporated
(Reidinger)

ERISA: Multiple issues arising from district court's grant of summary judgment to defendants on plaintiff's ERISA claims and denial of her motion for class certification.

PANEL I
Judge Agee, Judge Floyd, and Judge Thacker
9:30 a.m.

Monday, October 26, 2020

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (10/23/2020 - 11/2/2020 Session)
Monday, October 26, 2020

19-1962 [Briefs](#) ADMINISTRATIVE LAW: Whether Appellant is eligible for Superfund reimbursement without preauthorization
August Mack Environmental Inc. v. EPA when preauthorization form allegedly violated Paperwork Reduction Act, 44 U.S.C. sections 3501-21; other
(Kleeh) issues.

19-2075 [Briefs](#) CIVIL: Whether district court erred by applying federal law to state wrongful termination claim; other issues.
William Carmack v. Commonwealth of Virginia
(Urbanski)

19-6523 [Briefs](#) CONSTITUTIONAL LAW: Whether restrictions placed on inmate who refused to cut dreadlocks amounted to
Randy Burke v. Harold Clarke substantial burden on inmate's Rastafarian religious practice.
(Sargent)

PANEL II
Judge King, Judge Diaz, and Judge Gallagher*
9:30 a.m.

Monday, October 26, 2020

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Hon. Stephanie A. Gallagher, United States District Judge, District of Maryland

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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19-1989 [Briefs](#) SOCIAL SECURITY: Whether Social Security Administration's benefit redetermination procedures violated due
Gary Kirk v. Commissioner of SSA process and the APA.
(Coggins)
Associations: 19-2028

19-1782 [Briefs](#) CLASS ACTION: Whether tort claims were preempted by Interstate Commerce Clause Termination Act of 1995;
Jimmy Edwards v. CSX Transportation, Inc. other issues.
(Boyle)

19-7176 [Briefs](#) POSTCONVICTION: Whether Young failed to satisfy the second prong of the Wheeler test for challenging his
William Young v. B. Antonelli federal sentence in a section 2241 petition.
(Currie)

PANEL III
Judge Wynn, Judge Harris, and Judge Quattlebaum
2:00 p.m.

Monday, October 26, 2020

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (10/23/2020 - 11/2/2020 Session)
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19-2064 [Briefs](#)
Christopher Doyle v. Lawrence Hogan, Jr.
(Chasanow)

CONSTITUTIONAL LAW: Appeal from dismissal of psychotherapist's complaint challenging constitutionality of Maryland statute banning "conversion therapy" for minors as violative of First Amendment; standing issues.

PANEL IV
Judge Niemeyer, Judge Motz, and Judge Richardson
2:00 p.m.

Monday, October 26, 2020

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (10/23/2020 - 11/2/2020 Session)
Tuesday, October 27, 2020

19-1755 [Briefs](#)
Shean Emmons v. City of Chesapeake
(Leonard)

LABOR: Propriety of district court's conclusion that Battalion Chiefs' primary duty is not emergency response under the first responder regulations of the Fair Labor Standards Act.

PANEL I
Judge Wilkinson, Judge Motz and Judge Agee
9:30 a.m.

Tuesday, October 27, 2020

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (10/23/2020 - 11/2/2020 Session)
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19-1746 [Briefs](#)
JTH Tax, Incorporated v. Gregory Aime
(Morgan)
Associations: 19-1792

CONTRACT: Cross-appeals from district court's rulings on remand related to damages.

19-1959 [Briefs](#)
Solomon Nuru v. William Barr

IMMIGRATION: Propriety of agency's interpretation of 8 C.F.R. sections 208.14(C), 208.24 (2020) in holding Petitioner was no longer a derivative of mother's later-filed asylum application.

19-1964 [Briefs](#)
Jeffery Mays v. Ronald Sprinkle
(Conrad)

CIVIL RIGHTS: Whether, after Kingsley v. Hendrickson, 575 U.S. 959 (2015), a pretrial detainee's claim of deliberate indifference to a serious medical need is evaluated by objective reasonableness standard.

19-2390 [Briefs](#)
Fleet Feet, Inc. v. Nike, Inc.
(Eagles)

TRADEMARK: Whether district court erred by granting preliminary injunction based on "reverse confusion" theory of trademark infringement; issues of mootness.

PANEL II
Chief Judge Gregory, Judge Diaz and Judge Richardson
9:30 a.m.

Tuesday, October 27, 2020

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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19-1059 [Briefs](#)
Phillip Alig v. Quicken Loans Inc.
(Bailey)

CLASS ACTION: Challenge to class certification and summary judgment for plaintiffs on unconscionable inducement claims under West Virginia Consumer Credit and Protection Act; other issues.

19-2102 [Briefs](#)
Clayland Farm Enterprises, LLC v. Talbot
(Russell)

CONSTITUTIONAL LAW: Appeal from district court's grant of summary judgment to defendants on regulatory takings and substantive due process claims.

PANEL III
Judge Niemeyer, Judge Wynn and Judge Floyd
2:00 p.m.

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FOR THE FOURTH CIRCUIT
Richmond, VA (10/23/2020 - 11/2/2020 Session)
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19-1957 [Briefs](#)
Poly-Med, Inc. v. Novus Scientific Pte. Ltd.
(Childs)

CONTRACT: Whether South Carolina would recognize the continuous breach/continuous accrual theory in applying the statute of limitations to contract breach claims.

19-1930 [Briefs](#)
Edier Rodriguez Bedoya v. William Barr

IMMIGRATION: Whether petitioner established past persecution based on written death threats.

20-1160 [Briefs](#)
HIAS, Inc. v. Donald Trump
(Messitte)

CIVIL: Challenge to district court's order enjoining the implementation of an Executive Order regarding the Refugee Act.

PANEL IV
Judge King, Judge Keenan and Judge Harris
2:00 p.m.

Tuesday, October 27, 2020

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (10/23/2020 - 11/2/2020 Session)
Wednesday, October 28, 2020

18-6916 [Briefs](#)
Charles Vandross v. Bryan Stirling
(Gergel)

POSTCONVICTION: Whether the district court's conclusion as to the state court's rejection of ineffective assistance claim is debatable or wrong.

19-1793 [Briefs](#)
Lawrence Mann v. US
(Chuang)

TAX: Appeal from district court's determination that taxpayers were not entitled to charitable contribution deduction for donation of house to nonprofit organization.

PANEL I
Judge Niemeyer, Judge Motz and Judge Richardson
9:30 a.m.

Wednesday, October 28, 2020

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (10/23/2020 - 11/2/2020 Session)
Wednesday, October 28, 2020

19-4277 [Briefs](#)
US v. Stephen McGrath
(Grimm)

CRIMINAL: Whether valid appeal waiver bars review of claim that due process rights were violated by district court using religious language in sentencing.

19-1910 [Briefs](#)
John Doe 4 v. Shenandoah Valley Juvenile
(Dillon)

CIVIL RIGHTS: Propriety of grant of summary judgment to juvenile detention center on claims by immigrant child detainee of inadequate mental health care; standing issue.

19-1871 [Briefs](#)
Michael Tinsley v. City of Charlotte
(Mullen)

EMPLOYMENT: Whether the district court erroneously denied Defendant's motion for a directed verdict and abused its discretion in awarding equitable relief.

19-1350 [Briefs](#)
Loren Varner v. Michael Roane
(Dillon)

CIVIL RIGHTS: Whether district court properly concluded that police-citizen encounter was consensual and that officers did not manufacture probable cause for search.

PANEL II

Chief Judge Gregory, Judge Wilkinson and Judge Keenan
9:30 a.m.

Wednesday, October 28, 2020

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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19-2041 [Briefs](#)
Saul Benjamin v. Nicholas Sparks
(Dever)

CIVIL: Multiple issues arising from judgment for defense following jury trial on contract and defamation claims and grant of summary judgment on employment discrimination claims.

19-6774 [Briefs](#)
Jason Krembel v. US
(Flanagan)

TORT: In action under the Federal Tort Claims Act, whether Bureau of Prisons owed duty to ensure that inmate received necessary medical treatment for terminal illness.

PANEL III
Judge King, Judge Wynn and Judge Thacker
2:00 p.m.

Wednesday, October 28, 2020

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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19-1777 [Briefs](#) CIVIL: Multiple issues arising out of bench trial on breach of contract and fraudulent inducement claims.
J. Beatley v. Charles Ayers, Jr.
(Gibney)

Associations: 19-1809

* Senior Judge Traxler replaces Judge Agee in this case

19-4491 [Briefs](#) CRIMINAL: Whether the verdict form and instructions were confusing to the jury; other issues.
US v. Kevin Seigler
(Jones)

19-1953 [Briefs](#) CONSTITUTIONAL LAW: Whether district court erred by dismissing claims that application of Virginia Sex
Hester Prynne v. Gary Settle
(Hilton)
Offender Registry Act violated Ex Post Facto and Due Process Clauses.

PANEL I
Chief Judge Gregory, Judge Agee, and Judge Gallagher*
9:30 a.m.

Thursday, October 29, 2020

[LISTEN](#)

Hon. Stephanie A. Gallagher, United States District Judge, District of Maryland

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (10/23/2020 - 11/2/2020 Session)
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19-1862 [Briefs](#)
Juan Ayala v. US
(Ellis)

JURISDICTION : Whether district court erred by dismissing plaintiff's claims against DHS arising out of his detention and removal as barred by FTCA's discretionary function exception.

19-6871 [Briefs](#)
Devion Gentry v. A. Robinson
(O'Grady)

CIVIL RIGHTS: Whether district court correctly granted Defendants summary judgment on Plaintiff's claims arising out of enforcement of prison grooming policy over religious objection.

19-4077 [Briefs](#)
US v. Richard Haas
(Payne)

SENTENCING: Whether district court erroneously applied U.S. Sentencing Guidelines Manual sections 2G2.1(b)(1)(A), 4B1.5(b) for offense involving minor and absent covered-sex-crime-derived Guidelines range; other issues.

PANEL II
Judge Wilkinson, Judge Harris and Judge Richardson
9:30 a.m.

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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19-2115 [Briefs](#) IMMIGRATION: Whether substantial evidence supports the finding that Petitioner was not persecuted on
Anita Argueta Diaz De Gomez v. William Barr account of her family; related issues.

19-7027 [Briefs](#) CIVIL RIGHTS: Whether Defendants' refusal to allow deaf civil detainee access to videophone violates the
Thomas Heyer v. US Bureau of Prisons First Amendment.
(Dever)

18-6067 [Briefs](#) POSTCONVICTION: Whether counsel rendered ineffective assistance by failing to assert a double jeopardy
US v. Israel Palacios defense to conviction under 18 U.S.C. section 924(c), which is an element of 18 U.S.C. section 924(j).
(Chasanow)

19-1771 [Briefs](#) EMPLOYMENT: Whether district court erred in granting summary judgment on ADA claim based on disabled
Shelia Holmes v. General Dynamics Mission employee's inability to comply with her employer's safety policies.
(Jones)

PANEL III
Judge Motz, Judge Keenan and Judge Floyd
2:00 p.m.

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19-4137 [Briefs](#)
US v. Allen Loughry, II
(Copenhaver)

CRIMINAL: Whether district court erred by denying evidentiary hearing based on alleged juror misconduct arising from juror's Twitter usage during criminal trial against former judge.

19-1292 [Briefs](#)
Michael Bracey v. Lancaster Foods LLC
(Bennett)

ARBITRATION: Whether the district court erred in granting defendant's motion to compel arbitration and denying plaintiff's motion for reconsideration; other issues.

19-1636 [Briefs](#)
Claude Knight v. Boehringer Ingelheim
(Chambers)

CIVIL: Multiple issues arising from jury verdict finding pharmaceutical company liable for fraud and awarding punitive damages.

19-1731 [Briefs](#)
Claudio De Simone v. Alfasigma USA, Inc.
(Chuang)

CIVIL: Appeal from denial of post-judgment motions challenging 15 million dollar jury verdict on plaintiff's claims of false advertising under Lanham Act.

Associations: 19-1761, 19-1762

PANEL IV
Judge Niemeyer, Judge Diaz and Judge Quattlebaum
2:00 p.m.

Thursday, October 29, 2020

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (10/23/2020 - 11/2/2020 Session)
Friday, October 30, 2020

19-4318 [Briefs](#)
US v. Logan McCauley
(Ellis)

CRIMINAL: Whether motion for judgment of acquittal was proper in trial for production of child pornography.
Other issues.

19-4596 [Briefs](#)
US v. Ronald Collins
(Berger)

CRIMINAL: Whether the court properly rejected Collins' constitutional challenges to 18 U.S.C. section 922(g)(4);
whether sufficient evidence supported Collins' conviction following Rehaif v. United States, 139 S. Ct. 2191
(2019).

PANEL I
Judge Wilkinson, Judge Motz and Judge King
9:30 a.m.

Friday, October 30, 2020

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (10/23/2020 - 11/2/2020 Session)
Friday, October 30, 2020

19-4159 [Briefs](#)
US v. Robert Ellis
(Reidinger)

SENTENCING: Whether imposing an Internet ban as a supervised release condition for sex offenders constitutes substantive sentencing error; other issues.

19-4618 [Briefs](#)
US v. Rayco Bethea
(Anderson)

CRIMINAL: Whether district court erred in failing to apply provisions of First Step Act in reimposing judgment on habeas motion to allow direct appeal.

19-4104 [Briefs](#)
US v. Precias Freeman
(Cain)

CRIMINAL: Whether Freeman's sentence is substantively reasonable; whether counsel provided ineffective assistance at sentencing.

19-4406 [Briefs](#)
US v. Christian Allmendinger
(Payne)

SENTENCING: Whether, at resentencing, the district court properly considered the defendant's postsentencing rehabilitation evidence; other issues.

PANEL II
Chief Judge Gregory, Judge Floyd and Judge Quattlebaum
9:30 a.m.

Friday, October 30, 2020

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (10/23/2020 - 11/2/2020 Session)
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19-4310 [Briefs](#)
US v. Michael Lester
(Hendricks)

SENTENCING: Whether the district court erred in applying a Guidelines enhancement and failing to address defendant's sentencing arguments; whether the sentence is substantively reasonable.

19-4403 [Briefs](#)
US v. Andres Ayon-Brito
(Trenga)

CRIMINAL: Whether Eastern District of Virginia was appropriate venue for illegal reentry prosecution where indictment charged Defendant was found in Pennsylvania.

19-4732 [Briefs](#)
US v. Justin Wilson
(Chambers)

CRIMINAL: Sufficiency of evidence supporting finding that Wilson intended to cause death or serious bodily harm for carjacking conviction, where Wilson knew gun was not loaded.

19-4273 [Briefs](#)
US v. Craig Pulley
(Davis)

CRIMINAL: Whether district court properly determined that false information and material omissions were not recklessly included in search warrant applications.

PANEL III
Judge Niemeyer, Judge Keenan and Judge Myers*
2:00 p.m.

Friday, October 30, 2020

[LISTEN](#)

Hon. Richard E. Myers II, United States District Judge, Eastern District of North Carolina

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (10/23/2020 - 11/2/2020 Session)
Friday, October 30, 2020

19-2250 [Briefs](#)
Tanner Hirschfeld v. ATF
(Conrad)

CONSTITUTIONAL LAW: Appeal from district court's dismissal of appellants' constitutional challenge to restrictions in 18 U.S.C. section 922 on the sale of handguns to persons under 21.

19-4713 [Briefs](#)
US v. Jose Ramos Cabrera

SENTENCING: Whether USSG section 2D1.1(b)(1) firearm enhancement is sustainable where evidence shows the only gun was present during drug offense separate from underlying conviction; other issues.

18-4875 [Briefs](#)
US v. Antonio Simmons
(Davis)

CRIMINAL: Whether RICO conspiracy with murder as special sentencing factor was crime of violence under 18 U.S.C. section 924(c); other issues on cross-appeal.

Associations: 18-4876, 18-4877, 19-4269, 19-4287, 19-4345

PANEL IV
Judge Agee, Judge Wynn and Judge Richardson
2:00 p.m.

Friday, October 30, 2020

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (10/23/2020 - 11/2/2020 Session)
Monday, November 2, 2020

19-4158 [Briefs](#)
US v. Frank Purpera, Jr.
(Dillon)

CRIMINAL: Whether the Government's investigation of defendant's attorney for witness tampering created a conflict of interest warranting reversal of defendant's convictions; other issues.

19-4149 [Briefs](#)
US v. Michael Young, Jr.
(Childs)
Associations: 19-4222

CRIMINAL: Whether the definition of "an explosive," as contained in 18 U.S.C. section 1716(a), encompasses a "bomb" that the FBI designed to not explode; other issues.

19-4381 [Briefs](#)
US v. Christopher Singletary
(Dever)

CRIMINAL: Whether the district court adequately explained its reasons for imposing special conditions of supervised release; other issues.

PANEL I
9:30 a.m.

Monday, November 2, 2020

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