

Tuesday, September 19, 2023

21-4458	Briefs	CRIMINAL: Whether district court erred in rejecting Batson challenge; whether jury instruction constructively amended indictment; sufficiency of evidence regarding interstate commerce nexus; other issues.
US v. Maurice Wiley, Jr. (Schroeder)		
<hr/>		
21-4447	Briefs	CRIMINAL: Whether Appellant was denied a fair trial after a two-hour video recorded statement was admitted into evidence; related issues.
US v. Jonathan Jenkins (Dever)		
<hr/>		
21-4269	Briefs	CRIMINAL: Propriety of district court's denial of motion to dismiss indictment based on violation of Speedy Trial Act due to COVID-related trial delays; other issues.
US v. Quotez Pair (Payne)		
<hr/>		
20-6603	Briefs	CIVIL RIGHTS: Whether warden is entitled to qualified immunity on inmate's failure-to-protect claim; other issues.
Therl Taylor v. Levern Cohen (Anderson)		

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

Tuesday, September 19, 2023

[LISTEN](#)

Tuesday, September 19, 2023

16-4844	Briefs	CRIMINAL: Constitutionality of Section (d) of Stored Communications Act regarding cell phone location information; admission of summary charts and testimony; other issues.
US v. Juan Ortiz-Orellana (Titus)		
Associations:	16-4845	

19-4325	Briefs	SENTENCING: Whether there is reversible Rogers error in terms of Defendant's duty to report to probation upon release from custody; standard of review.
US v. Keith Long (Coggins)		

22-1014	Briefs	IMMIGRATION: Whether immigration judge erred by directing Government to question petitioner during hearing despite credibility stipulation and by later making adverse credibility finding.
Elvi Lopez-Reyes v. Merrick Garland		

PANEL II
Judge King, Senior Judge Motz, Senior Judge Floyd
Butzner Courtroom 201
9:30 a.m.

Tuesday, September 19, 2023

[LISTEN](#)

Tuesday, September 19, 2023

22-1129	Briefs	INSURANCE: Whether district court erroneously expanded uninsured motorist coverage from employer's policy to appellee who occupied a vehicle not owned or insured by employer.
Erie Insurance v. James Cooper (Berger)		
<hr/>		
19-1001	Briefs	CIVIL: Whether the district court erroneously granted summary judgment on First Amendment retaliation claim arising from state litigation initiated by public officials; related issues.
Calvin Hoagland v. David Bennett (Gergel)		
<hr/>		
22-1027	Briefs	ARBITRATION: Whether the district court erred in concluding that Appellant was not signatory to arbitration agreement; other issues.
Siobhan James v. RPS Holdings, LLC (Auld)		
<hr/>		
21-4185	Briefs	CRIMINAL: Whether the Government forfeited its argument regarding the timeliness of appeal by not raising that issue in its initial motion to dismiss; other issues.
US v. Daniel Kemp, Sr. (Boyle)		

PANEL III

Judge Harris, Judge Quattlebaum, Senior Judge Keenan
Blue Courtroom (Room 339)
9:30 a.m.

Tuesday, September 19, 2023

[**LISTEN**](#)

Tuesday, September 19, 2023

21-2275 [Briefs](#)
Kristin Cosby v. South Carolina Probation
(Herlong)

EMPLOYMENT: Whether district court properly rejected comparator evidence; other issues.

22-1857 [Briefs](#)
Angelia James v. City of Monroe
(Conrad)

CONSTITUTIONAL LAW: Whether the district court abused its discretion by finding James was unlikely to succeed on the merits of her First Amendment claims.

23-1058 [Briefs](#)
John Doe v. Jane Doe
(Dever)

CIVIL: Challenge to district court's denial of leave for plaintiff to proceed pseudonymously in defamation action against sexual assault accuser.

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

Tuesday, September 19, 2023

[LISTEN](#)

Tuesday, September 19, 2023

21-7459 [Briefs](#) POSTCONVICTION: Whether Smith's release from incarceration renders this appeal moot; whether district court erred in
Brennen Smith v. J. Streeval determining that the Bureau of Prisons correctly computed Smith's sentence.
(Jones)

21-4281 [Briefs](#) SENTENCING: Whether district court correctly applied Sentencing Guidelines enhancement for obstruction of justice
US v. Reggie Pettus based on defendant's hiding firearm near scene while police were searching area. (15 mins.)
(Conrad)

21-1396 [Briefs](#) CIVIL RIGHTS: Whether the district court properly granted Defendants' motion for judgment on the pleadings on
Charles Short v. J. Hartman deliberate indifference claim for pretrial detainee's death by suicide.
(Tilley)

Associations: 21-1397

PANEL V

Judge Gregory, Judge Heytens, Judge Boardman*
Tweed Courtroom (Room 414-D)
9:30 a.m.

Tuesday, September 19, 2023

[LISTEN](#)

*Hon. Deborah L. Boardman, United States District Judge, District of Maryland

Tuesday, September 19, 2023

22-4689 [Briefs](#) CRIMINAL: Multi-issue challenge to above-guidelines sentence; whether appellate waiver in plea agreement precludes
US v. Diana Toebbe this appeal.
(Groh)

21-1617 [Briefs](#) EMPLOYMENT: Whether crude conduct created hostile work environment; whether district court erred in granting
Diana Roesinger v. Pohanka of Salisbury, Inc. summary judgment to employer on retaliation and discriminatory termination claims.
(Bennett)

21-1859 [Briefs](#) SOCIAL SECURITY: Whether substantial evidence supported ALJ's determination that claimant had sufficient residual
Sharon Delesline-Meggett v. Commissioner capacity to return to her past sedentary job. 15 mins.
(West)

21-1459 [Briefs](#) CONSTITUTIONAL LAW: Whether district court correctly denied qualified immunity to officers based on lack of probable
David Thurston v. Kevin Frye cause to arrest for sex offender registration offenses.
(Cogburn)

PANEL VI

Judge Niemeyer, Judge Richardson, Judge Rushing
Tan Courtroom (Room 223)
9:30 a.m.

Tuesday, September 19, 2023

[LISTEN](#)

Wednesday, September 20, 2023

22-1440	Briefs	CIVIL: Whether sex discrimination claim by gay teacher against religious school is barred by Title VII, RFRA, and/or First Amendment.
Lonnie Billard v. Charlotte Catholic High (Cogburn)		
<hr/>		
20-7579	Briefs	POSTCONVICTION: Whether conviction under 18 U.S.C. section 111(b) constitutes a crime of violence under the elements clause of 18 U.S.C. section 924(c); other issues.
US v. Antonio McDaniel (Mullen)		
<hr/>		
22-6401	Briefs	CIVIL: Whether the district court abused its discretion by severing incarcerated plaintiffs' claims under Federal Rules of Civil Procedure 20 and 21.
Aaron Ellis v. Daniel I. Werfel (Jones)		
Associations: 22-6402, 22-6422		

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

Wednesday, September 20, 2023

[LISTEN](#)

Wednesday, September 20, 2023

23-1068 [Briefs](#) CIVIL: Whether movants may intervene either of right or by permission of the court.
Association for Education Fairness v. Montgomery
(Xinis)

23-6359 [Briefs](#) CONSTITUTIONAL LAW: Whether judge's delegation of pretrial detention determinations to county's Pretrial Division
Robert Frazier v. Prince George's County
(Messitte) violates United States and Maryland constitutional due process guarantees.

22-2275 [Briefs](#) CONSTITUTIONAL LAW: Whether action challenging pass-through provision of Maryland Digital Advertising Gross
Chamber of Commerce of the United States Revenues Tax Act is barred by the Tax Injunction Act.
(Griggsby)

22-7138 [Briefs](#) CIVIL COMMITMENT: Whether Court has jurisdiction over appeal from unrestorability order; impact of lapses in
US v. Theodore Carrington, Jr. authorized section 4241(d) commitment periods on certification under section 4246.
(Osteen)

PANEL II
Judge Richardson, Judge Heytens, Senior Judge Floyd
Butzner Courtroom 201
9:30 a.m.

Wednesday, September 20, 2023

[LISTEN](#)

Wednesday, September 20, 2023

22-2115 Cameron Lewis v. Kevin Caraballo (Blake)	Briefs	CIVIL RIGHTS: Whether this Court has jurisdiction over the district court's denial of qualified immunity to officer regarding Plaintiff's excessive force claims.
22-1853 Elegant Massage, LLC v. State Farm Mutual (Jackson)	Briefs	CLASS ACTION: Propriety of class action certification for insurance claims arising out of Virginia executive orders regarding COVID-19.
23-4055 US v. Heverth Castellon (Conrad)	Briefs	CRIMINAL: Whether defendant may waive his right, under Rule 43 of the Federal Rules of Criminal Procedure, to be present at resentencing.

PANEL III
Chief Judge Diaz, Judge Wynn, Senior Judge Keenan
Blue Courtroom (Room 339)
9:30 a.m.

Wednesday, September 20, 2023

[LISTEN](#)

Wednesday, September 20, 2023

21-2261 [Briefs](#)
Gregory Kelly v. Town of Abingdon
(Jones)

EMPLOYMENT: Whether the district court erred by dismissing claims under the Americans with Disabilities Act and by denying leave to amend.

22-1757 [Briefs](#)
Matthew Gibson v. Louise Goldston
(Volk)

CIVIL RIGHTS: Whether judicial immunity applies to conduct of judge who directed, observed, and ordered video recording of home search during divorce settlement proceedings.

PANEL IV
Judge Wilkinson, Judge Gregory, Judge Motz
Gold Courtroom (Room 348)
9:30 a.m.

Wednesday, September 20, 2023

[LISTEN](#)

Wednesday, September 20, 2023

20-7345	Briefs	CIVIL RIGHTS: Whether district court erred in granting summary judgment to correctional officer on inmate's excessive force claim.
Quentin Freeman v. Daniel Deas (Myers)		
<hr/>		
21-7447	Briefs	POSTCONVICTION: Whether Michigan bank robbery, Mich. Comp. Laws section 750.531, qualifies as a serious violent felony for purposes of 18 U.S.C. section 3559(c).
US v. Antonio Lightfoot (Messitte)		
<hr/>		
22-4452	Briefs	CRIMINAL: Whether district court erred in denying motion to suppress based on finding that police would have inevitably discovered firearm in backpack through inventory search.
US v. Re'Shaun Wilborne (Goodwin)		

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

Wednesday, September 20, 2023

[LISTEN](#)

Wednesday, September 20, 2023

21-4434 [Briefs](#)
US v. Martin Hamilton
(Biggs)

CRIMINAL: Whether attempt to commit North Carolina robbery with a dangerous weapon is a violent felony under the Armed Career Criminal Act.

22-1428 [Briefs](#)
Sean Rambert, Sr. v. City of Greenville
(Flanagan)

CIVIL: Challenge to denial of qualified immunity in case arising out of officers' use of force.

PANEL VI
Judge Thacker, Judge Quattlebaum, Senior Judge Traxler
Tan Courtroom (Room 223)
9:00 a.m.

Wednesday, September 20, 2023

[LISTEN](#)

Thursday, September 21, 2023

22-1721 [Briefs](#)
Maxwell Kadel v. Dale Folwell
(Biggs)

REHEARING EN BANC

22-1927 [Briefs](#)
Christopher Fain v. William Crouch
(Chambers)

REHEARING EN BANC

Butzner En Banc Courtroom 201
Chief Judge Diaz, Judge Wilkinson, Judge Niemeyer,
Judge King, Judge Gregory, Judge Agee, Judge Wynn,
Judge Thacker, Judge Harris, Judge Richardson,
Judge Quattlebaum, Judge Rushing, Judge Heytens,
Judge Benjamin
9:00 a.m.

Thursday, September 21, 2023

[LISTEN](#)

Friday, September 22, 2023

22-0005 [Briefs](#) CAPITAL: Whether appellant's prior convictions qualify as crimes of violence and drug trafficking crimes; whether sec. 924(c) conviction rested on valid predicates.
US v. Richard Tipton
(Novak)

23-0001 [Briefs](#) CAPITAL CASE: Whether appellant's prior convictions qualify as crimes of violence under sec. 924(c)(3)(A); whether jury instruction error was harmless.
US v. James Roane, Jr.
(Novak)

22-1981 [Briefs](#) BANKRUPTCY: Whether contempt and sanctions orders entered in bankruptcy proceeding are final for purposes of appellate jurisdiction.
Patricia Blair v. Bestwall, LLC
(Conrad)
Associations: 22-1984

23-4283 [Briefs](#) CRIMINAL: Multi-issue challenge to conditions of post-release supervision.
US v. Ali Amin
(Hilton)

PANEL I
Judge Wilkinson, Judge King, Judge Rushing
Red Courtroom (Room 412)
8:30 a.m.

Friday, September 22, 2023

[LISTEN](#)

Friday, September 22, 2023

22-0004 [Briefs](#) CAPITAL CASE: Whether district court lacked jurisdiction to consider Rule 60(b)(6) motion, whether motion constituted a successive habeas petition.
Steven Bixby v. Bryan Stirling
(Hendricks)

21-1960 [Briefs](#) CIVIL RIGHTS: Whether district court erred in denying qualified immunity to Defendants on Plaintiff's claims that she was unreasonably seized and searched; other issues.
Bikachi Amisi v. Lakeyta Brooks
(Novak)
Associations: 21-1962

22-4072 [Briefs](#) CRIMINAL: Whether the federal statute criminalizing illegal reentry, 8 U.S.C. sec.1326, violates the equal protection guarantee of the Fifth Amendment.
US v. Jorge Sanchez-Garcia
(Eagles)
Associations: 22-4075, 22-4077, 22-4078, 22-4107, 22-4100

21-4563 [Briefs](#) CRIMINAL: Whether the federal statute criminalizing illegal reentry, 8 U.S.C. sec.1326, violates the equal protection guarantee of the Fifth Amendment.
US v. Claudio Rodriguez
(Trenga)

PANEL II
Judge Diaz, Judge Agee, Judge Harris
Butzner Courtroom 201
8:30 a.m.

Friday, September 22, 2023

[LISTEN](#)

Friday, September 22, 2023

18-4907 US v. Jamaal Curtis (Howard)	Briefs	CRIMINAL: Whether the district court erred by concluding that Curtis' predicate ACCA offenses were committed on occasions separate from one another; other issues.
22-4544 US v. Brent Brewbaker (Flanagan)	Briefs	CRIMINAL: Whether per se rule was properly applied to antitrust prosecution; as-applied constitutionality of section 1 of the Sherman Act; other issues.
22-4426 US v. Jahsir Claybrooks (Tilley)	Briefs	CRIMINAL: Whether finding that defendant is "unlawful drug user" requires evidence of temporal proximity of habitual use to firearms possession; vagueness challenge to section 922(g)(3). Appellant also raises constitutional challenge in light of Supreme

PANEL III
Judge Gregory, Judge Richardson, Judge Giles*
Blue Courtroom (Room 339)
8:30 a.m.

Friday, September 22, 2023

[LISTEN](#)

*Hon. Patricia Tolliver Giles, United States District Judge, Eastern District of Virginia

Friday, September 22, 2023

21-4018 [Briefs](#)
US v. Martrey Newby
(Flanagan)

CRIMINAL: Whether Newby can appeal supervised release conditions in his amended judgment that he did not challenge in his first appeal.

21-4442 [Briefs](#)
US v. Richard Carter
(Britt)

CRIMINAL: Whether Appellant's claim of violation of Fifth Amendment privilege against self-incrimination is a valid constitutional claim that falls outside the scope of appeal waiver.

20-4604 [Briefs](#)
US v. Glenda Taylor-Sanders
(Conrad)
Associations: 21-4136

CRIMINAL: Whether Appellant's appeal waiver bars her challenges to the district court's restitution order; related issues.

22-4128 [Briefs](#)
US v. Laura Gallagher
(Ellis)
Associations: 22-4129

CRIMINAL: Propriety of waiting until end of trial to rule that Appellants did not misrepresent marital status; whether "prejudicial spillover" affected verdict; section 2L2.1(b)(5)(A) enhancement.

PANEL IV
Judge Wynn, Judge Quattlebaum, Judge Heytens
Gold Courtroom (Room 348)
8:30 a.m.

Friday, September 22, 2023

[LISTEN](#)

Friday, September 22, 2023

22-1826 [Briefs](#)
Abrar Omeish v. Stacey Kincaid
(O'Grady) CIVIL: Challenge to injunctive relief awarded by district court upon finding that ongoing retention of booking photograph violated RLUIPA; mootness.

22-1878 [Briefs](#)
Abrar Omeish v. J Patrick
(O'Grady) CIVIL: Challenge to district court's grant of summary judgment on qualified immunity grounds related to officer's use of force.

22-1936 [Briefs](#)
Abrar Omeish v. Stacey Kincaid
(O'Grady) CIVIL: Whether district court erred in denying attorney's fees to partially prevailing plaintiff in Section 1988 litigation.

21-4471 [Briefs](#)
US v. Treadway Manning
(Currie) CRIMINAL: Whether mandate rule bars challenge to multiplicity of punishments; if not, whether firearm's uninterrupted possession precludes consecutive sentences for section 922(g)(1) offenses; other issues.

PANEL V
Judge Niemeyer, Judge Thacker, Judge Benjamin
Tweed Courtroom (Room 414-D)
8:30 a.m.

Friday, September 22, 2023

[LISTEN](#)