

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-1715
Morgan Cnty War Mem v. Baker
(Bailey)

CIVIL. Whether district court erred in finding that pension plan was a governmental plan and thus was exempt from ERISA; other issues.

07-1635
Stacy Platone v. United States Department of La

SARBANES-OXLEY ACT: Whether Board's fact finding was arbitrary and capricious; whether Act protects a whistleblower's reporting of fraud not adverse to investors' interests.

07-1686
Aero-Smith Inc v. Cardinal Air LLC
(Bailey)

CIVIL. Whether the district court erred in granting summary judgment to the plaintiffs and enforcing an arbitration award.

07-4685
US v. Calvin Hardy
(Payne)

SENTENCING. Whether district court had jurisdiction under 18 U.S.C. Section 3583(i) (2000) to revoke supervised release; whether sentence was plainly unreasonable.

Monday, September 22, 2008

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-1555
M. S. v. Fairfax County School Board
(Cacheris)

IDEA. What standards govern parents' claim for reimbursement; other issues.

07-1987
Noel v. Artson
(Nickerson)

CIVIL. Whether defendants sufficiently raised below the affirmative defense of qualified immunity and, if so, whether the denial of qualified immunity is appealable.

Tuesday, September 23, 2008

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-0015
Blakeney v. Branker
(Voorhees)

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

07-1355
Ohio Valley Environmental Coal v. Elk Run Coal
(Chambers)

ENVIRONMENTAL LAW: Whether district court should have deferred to interpretation of regulation by Army Corps of Engineers; whether Corps properly limited the scope of its analysis; other issues.

06-7784
McLean v. US
(Doumar)

PRISON LITIGATION REFORM ACT. Whether dismissal without prejudice because action or appeal is frivolous, malicious, or fails to state a claim counts as a "strike" for purposes of revoking PLRA status.

Tuesday, September 23, 2008

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

Run Date: Wednesday, September 3, 2008

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-0017
Moseley v. Branker
(Tilley)

HABEAS CORPUS: Whether state's suppression of allegedly exculpatory evidence in capital case regarding a similar murder violated petitioner's due process rights.

07-1893
Bashe Yousuf v. Mohamed Samantar
(Brinkema)

TORTURE VICTIM PROTECTION ACT. Whether former official of Somalia accused of crimes under the TVPA is entitled to immunity under Foreign Services Immunities Act; other issues.

07-1584
Jones v. Sears Roebuck & Co
(Johnston)

CIVIL. Whether class plaintiff had standing; law-of-case doctrine; other issues.

08-1651
Technology Partners, Inc. v. Brian Hart
(Mullen)

PRELIMINARY INJUNCTION: Was it an abuse of discretion to deny preliminary injunction motion seeking enforcement of non-compete agreement.

Tuesday, September 23, 2008

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-4563
US v. Tommy Mincey
(Voorhees)

CRIMINAL LAW & PROCEDURE. Whether rental car company agent may consent to search of car driven by person not on rental agreement; other issues.

07-1991
Champion v. Black & Decker US
(Currie)

ERISA. Whether appellant established a conflict of interest warranting a less deferential standard of review.

07-4348
US v. Ralph A. Roseboro
(Conrad)

CRIMINAL LAW & PROCEDURE. Whether this Court's decision in United States v. James, 337 F.3d 387 (4th Cir. 2003), has been called into question by the Supreme Court's decision in Shepard v. United States 544 U.S. 13 (2005).

Tuesday, September 23, 2008

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-1354
Worden v. SunTrust Banks Inc
(Anderson)

EMPLOYMENT LAW. Whether employer violated the Employee Polygraph Protection Act.

07-1920
Dotson v. Pfizer, Incorporated
(Britt)

FMLA: Numerous issues relating to judgment, damages, prejudgment interest and attorneys fees in action alleging interference with protected leave and firing for adoption-related absences.

07-7671
US v. Graydon Comstock, Jr.
(Britt)

CONSTITUTIONAL LAW: Whether Congress has authority to provide for civil commitment of persons in federal custody deemed sexually dangerous; whether program violates the due process or equal protection clause.

07-1443
East TN Natural Gas v. Thomas
(Kiser)

CIVIL PROCEDURE. Whether the district court properly granted a new trial on the ground that the verdict was excessive; other issues.

Tuesday, September 23, 2008

PANEL V
Courtroom 5
Room 348 Courthouse
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

08-4215
US v. William Jefferson
(Ellis)

CRIMINAL LAW & PROCEDURE: Whether district court erred in denying motion to dismiss where alleged privileged legislative material was used to obtain indictment; other issues.

05-1329
Nimatallah Massis v. Michael Mukasey

IMMIGRATION. Whether this Court may review an administratively unexhausted claim; related issues.

07-1804
Waterside Capital v. Hales Bradford Allen
(Smith)

CIVIL. Whether district court erred in applying choice of law rules and dismissing breach of contract, professional malpractice, and constructive fraud claims under Rule 12(b)(6).

Wednesday, September 24, 2008

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-0011
US v. Richard Stitt
(Jackson)

CRIMINAL & POST-CONVICTION LAW: Whether defendant's counsel had a conflict of interest;
whether the district court should have reconvened a capital sentencing jury; other issues.

07-1513
Robert Moore v. Michael Mukasey
(Lee)

CIVIL. Whether genuine issues of material fact existed sufficient to warrant the denial of defendant's
summary judgment motion on Moore's discrimination claims.

Wednesday, September 24, 2008

PANEL II
Courtroom 2
Room 339 (Blue Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

08-6458
US v. Darrell Dews
(Chasanow)

CRIMINAL LAW & PROCEDURE. Whether plea agreement entered into pursuant to FRCP 11 (e)(1)(C) precludes sentence reduction under 18 U.S.C. section 3582 (c) as a result of amendment to Federal Sentencing Guidelines.

07-2057
SC Citizens for Life v. Krawcheck
(Wooten)

FEDERAL PROCEDURE: Whether challenge to South Carolina election laws defining a PAC should have been dismissed.

07-1761
Callahan v. Mountain Empire Oil
(Jones)

BANKRUPTCY. Challenge to judgment in favor of bankruptcy trustee in action to recover rents for occupancy and use of stores prior to sale by debtor.

07-1719
Beam v. Tatum
(Dever)

FEDERAL PROCEDURE: Whether plaintiff had state right to appeal a civil penalty; whether district court abused its discretion in applying Younger abstention doctrine.

Wednesday, September 24, 2008

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-1285
Miller v. Mandrin Homes, Ltd.
(Blake)

CIVIL. Whether the district court erred in entering summary judgment in CERCLA action due to conflicting evidence from expert witnesses; other issues.

07-1442
Lightner v. City of Wilmington
(Flanagan)

TITLE VII. Whether genuine issues of material fact exist regarding reason for adverse employment action in race and gender discrimination case, rendering summary judgment for employer inappropriate.

07-1525
Travelers Indemnity v. Tower-Dawson, LLC
(Quarles)

CIVIL. Propriety of summary judgment; interpretation of insurance liability contract.

07-1773
US ex rel Sanders v. North American Bus
(Motz)

FALSE CLAIMS ACT: Whether alleged misrepresentations to the government were material to proper classification of buses for tariff purposes; statute of limitations; other issues.

Wednesday, September 24, 2008

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-1063
Gorski v. ITT Long Term
(Dever)

ERISA. Whether coverage properly denied based on finding of no objective evidence of disability.

07-1768
Manuel Pena v. Jeffrey Porter
(Britt)

CONSTITUTIONAL LAW: Numerous issues relating to application of qualified immunity defense to state and federal claims.

07-1651
Piedmont Environmental Council v. FERC

FEDERAL POWER ACT: Whether Federal Energy Regulatory Commission order exceeds its statutory authority or is otherwise unlawful.

Wednesday, September 24, 2008

PANEL V
Courtroom 5
Room 348 Courthouse
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-1596
Decision Insights v. Sentia Group, et al
(Hilton)

CIVIL. Propriety of summary judgment in favor of defendants based on failure to identify software trade secrets with particularity; breach of contract claims; sanctions.

Thursday, September 25, 2008

PANEL I
Courtroom 1
Room 412 (Red Carpet)
8:30 a.m.

Run Date: Thursday, August 14, 2008

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-4536
US v. Eric J. Bullard
(Fox)

SENTENCING. Whether in light of Gall v. United States this Court reviews all aspects of the reasonableness of a sentence, including guidelines calculations not challenged on appeal.

07-1600
Altmayer-Pizzorno v. L-Soft Intl Inc
(Messitte)

COPYRIGHT LAW: Whether unambiguous notice of termination of agreement was given; whether copyright misuse defense bars infringement damages.

07-1506
W. Ryan Hovis v. General Dynamics
(Duffy)

BANKRUPTCY. Whether summary judgment was properly entered in favor of General Dynamics on claims arising out of commercial sale.

07-1343
Hahn v. US
(Messitte)

FTCA. Whether medical malpractice action under FTCA is barred by statute of limitations.

Thursday, September 25, 2008

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-0020
Wade Cole v. Gerald Branker
(Dever)

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

06-4950
US v. Geomar Quintero
(Conrad)

CRIMINAL LAW & PROCEDURE. Whether district court erred in ruling prior conviction was aggravated felony under 8 U.S.C. Section 1326(b)(2) and drug trafficking offense under USSG Section 2L1.2(b)(1)(A); other issues.

06-5172
US v. William H. Taft, Jr.
(Mullen)

SENTENCING GUIDELINES. Whether the district court erred by applying a presumption of reasonableness to the Guidelines sentencing range; whether the sentence is reasonable.

Thursday, September 25, 2008

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-1967
Qorvis Communication v. Wilson
(Ellis)

CIVIL. Whether district court erred in denying motion to vacate arbitration award arising out of claimed breach of duty to employer.

07-1610
Martin v. Harris
(Boyle)

CIVIL. Whether the district court appropriately awarded prejudgment interest on a Jones Act claim; other issues.

07-1668
Robinson v. American Honda
(Titus)

CONTRACTS: Whether district court erred in dismissing claims for breach of express warranty and implied warranty of merchantability based on allegations of premature tire failure.

07-1901
Gagliano v. Reliance Standard
(Brinkema)

ERISA. Whether benefits were properly reinstated based on finding of plan administrator's procedural non-compliance; other issues.

Thursday, September 25, 2008

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-1639
Ndeh v. Midtown Alexandria
(Brinkema)

ILSA: Whether contract for sale of condominium unit is exempt from Interstate Land Sales Full Disclosure Act.

07-1777
Grissom v. Mills Corporation
(Lee)

ATTORNEYS FEES: Multiple challenges to attorneys' fees awarded in Sarbanes-Oxley case.

Thursday, September 25, 2008

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

06-2050
Chi Alfred Zuh v. Gonzales

IMMIGRATION. Whether the Immigration Judge's discretionary denial of asylum was manifestly contrary to law and an abuse of discretion.

07-5144
US v. In the Matter of the Search of
(Stamp)

GRAND JURY. Challenge to grand jury subpoena.

07-1431
SC Wildlife Fed v. Limehouse
(Norton)

NEPA. Whether director of state agency can be sued for alleged violations of National Environmental Policy Act.

06-9518
In re Under Seal

UNDER SEAL CASE

Thursday, September 25, 2008

PANEL V
Courtroom 5
Room 348 Courthouse
9:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-6358
US v. Smith
(Goodwin)

POST-CONVICTION. Whether counsel's failure to file certiorari petition, as requested, violates the Sixth Amendment right to counsel.

07-4051
US v. Kenny Regan Major
(Herlong)

CRIMINAL LAW & PROCEDURE. Whether there was sufficient factual basis to support guilty plea.

06-2250
US v. Alhindi
(Hilton)

FORFEITURE LAW. Numerous issues relating to determination of ownership of property at stake in ancillary proceedings to a criminal forfeiture action.

06-4977
US v. Louis Antonio Bryant
(Moon)

CRIMINAL LAW & PROCEDURE. Speedy trial, Batson challenge, evidentiary rulings, sufficiency of the evidence, sentencing guidelines; other issues.

Friday, September 26, 2008

PANEL I
Courtroom 1
Room 412 (Red Carpet)
8:30 a.m.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, VA
(09/22/2008 - 09/26/2008 Session)

07-4067
US v. Christopher A. Hall
(Williams)

CRIMINAL LAW & PROCEDURE. Whether multiple retrials of defendants violated their rights under the Double Jeopardy Clause and denied them the right to a speedy trial.

08-4291
US v. Tabettha Goforth
(Reidinger)

BAIL REVIEW. Whether district judge has authority under 18 USC Section 3145(c) to determine that exceptional circumstances justify release on bail.

06-4956
US v. Kamalu
(Williams)

CRIMINAL LAW & PROCEDURE. Sufficient evidence; perjured testimony; amount of tax loss determined at sentencing; other issues.

Friday, September 26, 2008

PANEL II
Courtroom 2
Room 201 (Green Carpet)
8:30 a.m.