

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/03/2003 - 06/06/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

02-25
Sammy Perkins v. R. C. Lee
(Fox)

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

02-7880
Michael Wilson v. Barry Kittoe
(Turk)

CIVIL RIGHTS. Challenge to denial of qualified immunity to police officer in action alleging arrest and imprisonment without probable cause.

02-4978
USA v. Robert Fitzgerald
(Williams)

CRIMINAL LAW & PROCEDURE. Challenge to the granting of defendants' motion in limine regarding expert testimony.

01-4863 (L), 02-4007
USA v. Levi Johnson
(Garbis)

CRIMINAL LAW & PROCEDURE. Challenge to denial of severance; sufficiency of the evidence; sentencing issues.

PANEL I
COURTROOM ONE
Courthouse Room 435 (Red Carpet)
9:00 a.m.

TUESDAY, JUNE 3, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/03/2003 - 06/06/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

02-4295 (L), 02-4333
USA v. Vincente Pierre
(Moon)

EVIDENCE. Whether the evidence was sufficient to establish
guilt beyond a reasonable doubt.

02-4935
USA v. Ronald Brookins
(Jackson)

SEARCH & SEIZURE. Government appeal of suppression of
evidence obtained from warrantless search of truck.

02-2235
R. R. v. Fairfax Cnty Bd
(Brinkema)

EDUCATION. Whether plaintiff's request for a due process
hearing under IDEA was time-barred.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
9:00 a.m.

TUESDAY, JUNE 3, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/03/2003 - 06/06/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

03-4162 (L), 03-4261
USA v. Zacarias Moussaoui
(Brinkema)

CRIMINAL LAW & PROCEDURE. Issues of jurisdiction,
separation of powers, and compulsory process to be argued
in open court, followed by argument in closed session on
issues involving discussion of classified information.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
2:00 p.m

TUESDAY, JUNE 3, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/03/2003 - 06/06/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

02-4953
USA v. William Jarrett
(Williams)

CRIMINAL LAW & PROCEDURE. Challenge to suppression of evidence on the ground that private party was an agent of the government at time of the search.

02-1835 (L), 02-1893 02-2024
John Rodriguez v. Smithfield Packing
(Britt)

CIVIL RIGHTS. Whether defendants were acting under color of state law; challenge to enforceability of signed releases.

01-2385
John Bollech v. Charles Cnty MD
(Chasanow)

CONTRACTS. Challenge to summary judgment in action by developer against county for refusing to honor 10-year-old development agreement.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
9:00 a.m.

TUESDAY, JUNE 3, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/03/2003 - 06/06/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

01-2060 (L), 02-2067 02-2090
USA v. Charles McHan
(Voorhees)

FORFEITURE. Whether there is a constitutional right to a jury trial in an ancillary proceeding under 21 U.S.C. Section 853(n) (2000); other issues.

02-1564 (L), 02-2187
Daniel Wagner v. Bd of Education
(Chasanow)

EDUCATION. Whether community services program was available as student's "stay-put" placement under IDEA; whether school board's alternate proposal constituted a change in educational placement.

02-2302
NLRB v. Forsyth Electrical

LABOR. Whether workers were economic strikers entitled to preferential rehire rights.

02-2193 (L), 02-2294
Beachwalk Homeowners v. General Star
(Duffy)

INSURANCE. Challenge to summary judgment in action resulting from the collapse of a building built over a construction debris pit.

PANEL IV
COURTROOM FOUR
Courthouse Room 420 (Tweed Carpet)
9:00 a.m.

TUESDAY, JUNE 3, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/03/2003 - 06/06/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

02-5
Timothy Allen v. R.C. Lee
(Howard)

Rehearing En Banc.

COURTROOM TWO
Courthouse Room 233 (Green Carpet)
9:00 a.m.

WEDNESDAY, JUNE 4, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/03/2003 - 06/06/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

02-4530 (L), 02-4581
USA v. Wiley Wilson
(Williams)

CRIMINAL LAW & PROCEDURE. Challenge to restriction on cross-examination of government witnesses; whether escape is a crime of violence for sentencing purposes.

02-4636
USA v. Douglas Westmoreland
(Osteen)

CRIMINAL LAW & PROCEDURE. Whether U.S. Sentencing Guideline Manual Section 2B3.2, extortion by force or threat of injury or serious damage, is applicable to Westmoreland's conduct.

02-4742
USA v. Ivander James
(Houck)

CRIMINAL. Whether the district court erred in determining a failure to stop for a blue light in violation of a South Carolina state statute is a violent felony under 18 U.S.C. Section 924(e).

PANEL I
COURTROOM ONE
Courthouse Room 435 (Red Carpet)
Beginning at conclusion
of en banc rehearings

WEDNESDAY, JUNE 4, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/03/2003 - 06/06/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

01-3
USA v. Dustin Higgs
(Messitte)

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

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
Beginning at conclusion
of en banc rehearings

WEDNESDAY, JUNE 4, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/03/2003 - 06/06/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

02-1999
Frederick Bouchat v. Baltimore Ravens
(Garbis)

COPYRIGHT. Whether plaintiff was entitled to recover
monetary damages for copyright infringement.

02-4731
USA v. Ashon Leftenant
(Williams)

CRIMINAL LAW & PROCEDURE. Whether six count indictment
charging fraudulent possession of counterfeit bills was
multiplicitous; speedy trial; other issues.

02-4344
USA v. Wesley Williams
(Houck)

CRIMINAL LAW & PROCEDURE. Whether government's evidence of
robbery victim's prior narcotics trafficking was sufficient
to establish interstate commerce nexus.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
Beginning at conclusion
of en banc rehearings

WEDNESDAY, JUNE 4, 2003

UNITED STATES COURT OF APPEALS
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NUMBER AND STYLE

NATURE OF CASE

02-1631
Beatrice Moon v. Virginia Oil
(Moon)

FLSA. Whether the employee is exempt from overtime pay
under the Act.

02-1918
Howard Perry Walston v. Meredith Corp
(Boyle)

CONTRACTS. Challenge to dismissal of claims alleging
breach, fraud, unfair trade practices and unjust enrichment
in action arising out of franchise agreement.

02-2320
James Loftus v. Vista RMS
(Lee)

SURETIES. Challenge to summary judgment on successor
liability.

PANEL IV
COURTROOM FOUR
Courthouse Room 420 (Tweed Carpet)
Beginning at conclusion
of en banc rehearings

WEDNESDAY, JUNE 4, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/03/2003 - 06/06/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

03-1
David Hill v. Jon Ozmint
(Anderson)

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

02-2056
HHS v. Zane Smitley
(Boyle)

BANKRUPTCY. Whether non-discharge of Health Education Assistance Loan would be "unconscionable."

02-2154
Issam Beydoun v. Clark Construction
(Hilton)

CIVIL/TORTS. Whether district court erred in dismissing diversity suit alleging breach of severance agreement.

02-2375
WV Highlands v. Gale Norton
(Stanley)

ATTORNEY'S FEES. Whether plaintiffs were entitled to attorney's fees for administrative proceedings under the Surface Mining and Control and Reclamation Act.

PANEL I
COURTROOM ONE
Courthouse Room 435 (Red Carpet)
9:30 a.m.

THURSDAY, JUNE 5, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(06/03/2003 - 06/06/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

02-2027 (L), 02-2035
Central Electric v. Southeastern Power
(Perry)

ADMINISTRATIVE AGENCY. Whether surcharge on energy rates was unlawful retroactive ratemaking; whether plaintiffs were entitled to prejudgment interest.

03-1322 (L), 03-1341
USCOC of VA v. Montgomery Cnty Bd
(Kiser)

LAND USE. Whether district court erred in holding that County's denial of special use permit for a cellular transmission tower was not supported by substantial evidence.

02-2139
Karen King v. Marriott Intl
(Williams)

ERISA. Whether state law claims are completely preempted by ERISA; whether plaintiff was wrongfully terminated.

02-2344 (L), 02-2414
NLRB v. Transpersonnel

LABOR. Whether company unlawfully solicited a petition indicating employees' disaffection with union and unlawfully withdrew union recognition.

PANEL II
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9:30 a.m.

THURSDAY, JUNE 5, 2003

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NUMBER AND STYLE

NATURE OF CASE

02-4699
USA v. Brandon Young
(Keeley)

SEARCH & SEIZURE. Standing of vehicle passenger to contest additional detention related to questioning outside the scope of initial motor vehicle stop; other traffic stop issues.

02-1866
Joseph Pecar v. St. Paul Fire
(Williams)

INSURANCE. Challenge to summary judgment on the ground of insufficient evidence to prove the existence of professional liability policy.

00-2385 (L), 02-1810
Margaret Fabri v. Hartford
(Norton)

INSURANCE. Whether insurer had duty to defend insured in defamation action; damages.

03-4023
USA v. Ralph Rich
(Payne)

CONSTITUTIONAL LAW. Whether Deadbeat Parents Punishment Act, 18 U.S.C. Section 228 (2000), is constitutional under the Commerce Clause.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
9:30 a.m.

THURSDAY, JUNE 5, 2003

UNITED STATES COURT OF APPEALS
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Richmond, Virginia
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NUMBER AND STYLE

NATURE OF CASE

02-1695
WV Highlands v. Gale Norton
(Stanley)

ADMINISTRATIVE AGENCY. Challenge to remand to the Interim Board of Land Appeals for an administrative award of attorneys' fees.

02-4875
USA v. Jamal Abuagla
(Hilton)

CRIMINAL LAW & PROCEDURE. Whether under 18 U.S.C. Section 1015 (2000) materiality is an implicit element of the prohibition against making a false statement in a matter involving a naturalization proceeding.

01-4186
USA v. Cleo Graham
(Mullen)

CRIMINAL LAW & PROCEDURE. Whether the district court erred when it concluded it lacked authority to depart downward to a sentence of less than ten years; other issues.

02-1679
Sterling Smokeless v. DOWCP

BLACK LUNG BENEFITS. Whether claimant suffered from complicated pneumoconiosis; whether Sterling Smokeless was properly designated responsible operator.

PANEL IV
COURTROOM FOUR
Courthouse Room 420 (Tweed Carpet)
9:30 a.m.

THURSDAY, JUNE 5, 2003

UNITED STATES COURT OF APPEALS
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NUMBER AND STYLE

NATURE OF CASE

01-4979 (L), 01-4983
USA v. Timothy Gadson
(Currie)

CRIMINAL LAW & PROCEDURE. Multiple issues arising out of
drug conspiracy convictions and life sentences.

01-4672 (L), 01-4673 01-4680
USA v. Bobby Brown
(Davis)

CRIMINAL LAW & PROCEDURE. Whether statements made during
government's closing argument constituted prosecutorial
misconduct warranting new trial; other issues.

02-4845
USA v. Marshall King
(Payne)

CRIMINAL LAW & PROCEDURE. Whether district court erred in
granting a new trial based on newly discovered impeachment
evidence.

03-1269
USA v. Under Seal
(Williams)

Expedited.

PANEL I
COURTROOM ONE
Courthouse Room 435 (Red Carpet)
9:00 a.m.

FRIDAY, JUNE 6, 2003