

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(01/30/2007 - 02/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-16 (L), 06-17
Williams v. Ozmint
(Currie)

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

05-1955
McLaughlin v. Murphy
(Blake)

CIVIL. Whether appellant established a prima facie case of minimum wage violation under the Fair Labor Standards Act of 1938.

06-1203 (L), 06-1369
Chao v. Self Pride Inc
(Bennett)

FAIR LABOR STANDARDS ACT. Whether partial summary judgment was proper regarding employer's liability for violations of overtime and record keeping provisions of Act; whether computation of back wages was proper; whether violations met fullness standard.

06-1156 (L), 06-1494
Medical Assurance v. US
(Goodwin)

INSURANCE. Whether four-year delay in reporting claim was reasonable; whether insurer was prejudiced; propriety of attorneys fees awarded to United States.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
9:30 a.m.

TUESDAY, JANUARY 30, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(01/30/2007 - 02/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

05-7955

Lyons v. Weisner
(Howard)

HABEAS CORPUS. Whether petitioner's Sixth Amendment rights were violated when he was sentenced under North Carolina's structured sentencing scheme.

05-1380

Ausherman v. Bank of America Corp
(Garbis)

ATTORNEY SANCTIONS. Challenge to the imposition of sanctions on plaintiff's counsel in a Fair Credit Reporting Act case.

05-7728

Wolfe v. Weisner
(Howard)

HABEAS CORPUS. Whether petitioner's procedural and substantive due process rights were violated.

05-1896

Sharpe v. DOWCP

BLACK LUNG BENEFITS. Whether ALJ erred in granting employer's request for modification; whether ALJ's conclusion that Sharpe did not suffer from complicated pneumoconiosis is supported by substantial evidence; other issues. 15 mins. per side

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
9:30 a.m.

TUESDAY, JANUARY 30, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(01/30/2007 - 02/02/2007 Session)

NUMBER AND STYLE

05-2331
Ruff v. Target Stores
(Conrad)

NATURE OF CASE

EMPLOYMENT DISCRIMINATION. Whether "mixed motive" analysis adopted by Supreme Court in Desert v. Costa, 539 U.S. 90 (2003), should be extended to age discrimination claims; whether genuine issues of material fact exist regarding reason for plaintiff's termination.

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

TUESDAY, JANUARY 30, 2007

REVD 1/26/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(01/30/2007 - 02/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-1241
Cincinnati Ins Co v. Urgent Care
(Herlong)

INSURANCE. Does coverage exist based upon missing endorsement; does exclusion for drug manufacture apply; policy limits issue.

06-1334
Pharmacists Mutual v. Seyster
(Herlong)

INSURANCE. Whether coverage is barred by drug manufacture or willful violation of law exclusions; whether modified continuous trigger theory applies.

PANEL IV
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
9:30 a.m.

TUESDAY, JANUARY 30, 2007

REVD 1/10/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(01/30/2007 - 02/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-1488

Fanczi Screw Company v. ORIX Financial
(Wooten)

CONTRACT. Proper measure of damages under New York law for breach of contract; attorney's fees and interest issues.

06-1265

Expert Business Sys v. BI4CE Inc
(Davis)

CIVIL. Whether summary judgment was appropriate on claims of violations of Electronic Communications Privacy Act and Computer Fraud and Abuse Act.

04-4943

US v. Kindale Crockton
(Fox)

CRIMINAL LAW & PROCEDURE. Whether admission of field interview card and prosecutor's reference to information on card during closing argument constituted reversible error; other issues.

06-1299

Fidelity Bank PLC v. Northern Fox Ship
(Quarles)

ADMIRALTY LAW. Was it an abuse of discretion to grant plaintiff's motion to voluntarily dismiss its complaint when a summary judgment motion was pending and to dismiss the counterclaim; whether Nigeria is an adequate alternate forum of resolution of the matter.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
9:30 a.m.

WEDNESDAY, JANUARY 31, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(01/30/2007 - 02/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-4109

US v. Linwood Mathias
(Boyle)

CRIMINAL LAW. Does prior escape conviction qualify as violent felony for purposes of sentencing under Armed Career Criminal Act.

05-1667

Heilig Meyers Co v. IRS
(Hudson)

TAX. Whether application of the clear reflection of income standard to valuation dispute was proper; whether failure to make factual findings constitutes error.

06-1362

Gulf Underwriters v. KSI Services Inc
(Ellis)

INSURANCE. Whether embezzlement was committed within scope of employment; whether coverage barred by exclusion; other issues.

04-4997

US v. Keith Burgess
(Wooten)

SENTENCING. Whether district court erred in enhancing Burgess's sentence for a prior felony drug offense conviction pursuant to 21 U.S.C. Section 851 (2000), whether base offense level was properly determined.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
9:30 a.m.

WEDNESDAY, JANUARY 31, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(01/30/2007 - 02/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-1062

Secretary of State v. Trimble Navigation
(Lee)

CONTRACT. Whether United Kingdom could sue as intended third-party beneficiary under contract between U. S. Air Force and manufacturer of microchip for cruise missile systems.

06-1344

In re:Lockheed Mart

MARITIME. Whether defendant has a Seventh Amendment right to have his counterclaim tried to a jury where plaintiff's claim for declaratory relief is designated as a maritime claim.

06-1259

Long John Silvers v. Cole
(Floyd)

ARBITRATION. Whether district court properly construed Section 16(b) of the Fair Labor Standards Act; whether the arbitrator disregarded the law or exceeded the scope of his authority.

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

WEDNESDAY, JANUARY 31, 2007

REVD 1/10/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(01/30/2007 - 02/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-1358

San Francisco Oven v. Fransmart Inc
(Lee)

LANHAM ACT. Whether an omission of a material fact may
state a claim under the Lanham Act; other issues.

06-1031

Li v. Gonzales

IMMIGRATION. Propriety of denial of asylum, and protection
under the Convention Against Torture.

06-4216

US v. Gregory Banks
(Motz)

CRIMINAL LAW & PROCEDURE. Propriety of inventory search;
evidentiary ruling; competency of defendant.

05-5245

US v. Nick Halteh
(Lee)

CRIMINAL LAW & PROCEDURE. Whether admission of 911 call
violated confrontation clause; whether information about
defendant's gang affiliation was erroneously admitted;
other issues.

PANEL IV
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
9:30 a.m.

WEDNESDAY, JANUARY 31, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(01/30/2007 - 02/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

05-1091
Anderson v. Sara Lee Corporation
(Howard)

FAIR LABOR STANDARDS ACT. Challenge to summary judgment and dismissal of claims in action alleging employer's failure to pay overtime wages for required onsite uniform changes.

06-4516
US v. Abdul H. Muhammad
(Britt)

CRIMINAL LAW & PROCEDURE. Whether failure to accord defendant an opportunity to allocute during resentencing constituted plain error when court imposed same sentence on resentencing.

05-4817
US v. Tauheedah Richardson
(Howard)

SENTENCING. Whether the variance sentence was reasonable.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
9:30 a.m.

THURSDAY, FEBRUARY 1, 2007

REVD 1/26/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(01/30/2007 - 02/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-7427

Al-Marri v. Wright
(Floyd)

HABEAS CORPUS. Challenge to detention of enemy combatant.

06-1315

Hilb Rogal & Hobbs v. Risk Strategy
(Payne)

BUSINESS TORT. Should choice of law rule apply to action alleging violation of Virginia Business Conspiracy Statute; whether lex loci doctrine requires application of Georgia law; issue regarding doctrine of legislative jurisdiction.

06-4462

US v. Clarence B. Abbott
(Howard)

CRIMINAL LAW & PROCEDURE. Whether presentence report's brief general statement regarding factors that may warrant departure satisfies Fed. R. Crim. P. 32(h) notice requirement.

05-1773

Klopman v. Zurich American
(Quarles)

INSURANCE. Propriety of summary judgment in favor of insurance company in action brought to enforce rights under lost insurance policy.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
9:30 a.m.

THURSDAY, FEBRUARY 1, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(01/30/2007 - 02/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-1177

Darden v. Peters
(Boyle)

COPYRIGHT. Standard of review for copyright denial; other issues.

05-2317

Markovski v. Gonzales

IMMIGRATION. Whether the Immigration Judge erred in denying application for adjustment of status.

05-4028

US v. Carlose D. Robinson
(Herlong)

CRIMINAL LAW & PROCEDURE. Fourth Amendment and sentencing issues.

05-5118

US v. Russell E. Miller
(Conrad)

SENTENCING. Whether sentencing court erred in applying enhancement that exceeded enhancement agreed upon in plea agreement; denial of motion to disqualify.

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

THURSDAY, FEBRUARY 1, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(01/30/2007 - 02/02/2007 Session)

NUMBER AND STYLE

05-1414 (L), 05-1442
Boss v. Nissan North America
(Motz)

06-1434
NLRB v. Standard Register Co

05-1204
Mbea v. Gonzales

NATURE OF CASE

CIVIL. Propriety of removal and expert evidence rulings.

LABOR. Whether harassment of one employee is ground for denying enforcement of NLRB order in close union election; other issues.

IMMIGRATION. Whether this Court has jurisdiction under 8 U.S.C. Section 1252, as amended by the REAL ID Act of 2005, to review petitioner's appeal.

PANEL IV
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
9:30 a.m.

THURSDAY, FEBRUARY 1, 2007

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(01/30/2007 - 02/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-4167
US v. Peter F. Blackman
(Moon)

CRIMINAL LAW & PROCEDURE. Whether evidence in criminal contempt conviction established requisite intent to violate preliminary injunction enforcing preservation easement on historic home.

06-4602
US v. Michael Ray Thornton
(Turk)

CRIMINAL LAW & PROCEDURE. Whether conviction for non-forceable statutory rape pursuant to Virginia statute constitutes a violent felony for purposes of enhancement of sentence under Armed Career Criminal Act; other issues.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
** 8:15 a.m. **

FRIDAY, FEBRUARY 2, 2007

REVD 1/26/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(01/30/2007 - 02/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

05-2235

Travelers Indemnity v. Miller Building Corp
(Boyle)

INSURANCE. Whether district court erred in determining insurer's indemnity obligations prior to completion of arbitration.

06-4630

US v. Damien Troy Moulden
(Payne)

CRIMINAL. Standard of review for revocation of probation.

05-4956

US v. D. J. Cooper
(Moon)

CRIMINAL LAW & PROCEDURE. Whether evidence was sufficient to support defendant's convictions under the Clean Water Act; other issues.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
8:30 a.m.

FRIDAY, FEBRUARY 2, 2007

REVD 1/18/07

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(01/30/2007 - 02/02/2007 Session)

NUMBER AND STYLE

NATURE OF CASE

06-4774

US v. James M. Shortt
(Anderson)

CRIMINAL LAW & PROCEDURE. Whether a variant sentence more than 100 percent greater than guideline sentence is unreasonable.

05-4435 (L), 05-4503 05-4837

US v. Gregory Wilson
(Garbis)

CRIMINAL LAW & PROCEDURE. Admission of expert testimony concerning meaning of drug-related terms and phrases; other issues.

06-4552

US v. Maurice Dugger
(Chambers)

CRIMINAL LAW & PROCEDURE. Enhancement under USSG Section 2D1.1(b)(3) based on distribution of marijuana in prison while awaiting trial for apparently unrelated distribution of crack outside of prison.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
8:30 a.m.

FRIDAY, FEBRUARY 2, 2007

REVD 1/26/07