

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (03/18/2014 - 03/20/2014 Session)

12-2503 [Briefs](#)
Sean Smith v. Peter Gilchrist, III
(Conrad)

CIVIL RIGHTS: Did district court err in granting district attorney qualified immunity in suit alleging infringement of First Amendment right based on firing of assistant.

13-6792 [Briefs](#)
US v. Randle Cooke
(Flanagan)

CIVIL: Whether district court erred in finding Cooke was a sexually dangerous person under 18 U.S.C. section 4248 (2012).

13-1807 [Briefs](#)
Amanda Underwood v. WV Dept. of Health
(Goodwin)

CIVIL RIGHTS: Numerous issues in Section 1983 action alleging violation of constitutional rights in removal of children and termination of parental rights under West Virginia law.

13-4100 [Briefs](#)
US v. Darrell Washington
(Anderson)

CRIMINAL: Whether judicial finding that appellant continued in conspiracy after prior conviction was impermissible to increase mandatory minimum sentence.

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

Tuesday, March 18, 2014

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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13-4487 [Briefs](#) SENTENCING: Whether district court properly found defendant used firearm in connection with another felony for purposes of
US v. Jordan Laudermilt USSG section 2K2.1(b)(6)(B) enhancement.
(Stamp)

13-1937 [Briefs](#) ALIEN TORT STATUTE: Did district court err in dismissing claims under Alien Tort Statute for alleged war crimes, torture and
Suhail Al Shimari v. CACI Premier Technology, cruel, inhumane or degrading treatment; other issues.
(Lee)
Associations: 13-2162

13-1931 [Briefs](#) BANKRUPTCY: Did the trustee properly plead and prove his claims under sections 547(b) and 550 of the Bankruptcy Code;
RailWorks Corporation v. Construction other issues.
(Bredar)

PANEL II
Butzner En Banc Courtroom 201
9:30 a.m.

Tuesday, March 18, 2014

REVD 3/17/14

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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13-1708 [Briefs](#) ATTORNEY FEES: Numerous issues related to propriety of district court's award of attorney fees and costs.
Best Medical International v. Eckert & Ziegler
(Hilton)

13-1382 [Briefs](#) CIVIL: Whether district court erred in granting discovery in ancillary proceeding, in holding privileged documents were subject to crime-fraud exception, and in finding waiver of privilege.
Chevron Corporation v. Aaron Page
(Titus)
Associations: 13-2028

12-7675 [Briefs](#) Section 2255: Whether motion was untimely filed; if so, whether claims of actual innocence permit consideration of motion.
US v. Torrance Jones
(Boyle)

13-4231 [Briefs](#) CRIMINAL LAW: Sufficiency of evidence for convictions of fraud and perjury; other issues.
US v. Eddie Louthian, Sr.
(Jones)

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

Tuesday, March 18, 2014

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13-1834	Briefs	FEDERAL ARBITRATION ACT: Whether district court erred by abstaining from exercising jurisdiction over construction litigation.
Home Buyers Warranty Corp. v. Lois Hanna (Goodwin)		
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13-1360	Briefs	ERISA: Was proper standard applied in determining whether fiduciaries breached their duty in making plan investment decision; other issues.
Richard Tatum v. RJR Pension Investment (Tilley)		
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13-1613	Briefs	INSURANCE: Whether supplemental insurance policy excludes uninsured motorist coverage; other issues.
Rolf Kamp v. Empire Fire and Marine Ins. (Anderson)		
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13-1583	Briefs	SOCIAL SECURITY: Multiple issues arising from ALJ's denial of disability insurance benefits and supplemental security income.
Sharon Bryant v. Carolyn Colvin (Gauvey)		

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

Tuesday, March 18, 2014

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13-1849	Briefs	SARBANES-OXLEY: Whether the district court erred in determining that protected activity under SOX was not a contributing factor in employer's decision to fire plaintiff; other issues.
Paul Feldman v. Law Enforcement Associates (Britt)		
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12-4724	Briefs	CRIMINAL: Prosecutorial misconduct in closing argument and response to Fed. R. Crim. P. 29 motion; sufficiency of the evidence; other issues.
US v. Eric A. Fields (Fox)		
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13-4158	Briefs	CRIMINAL LAW: Whether the district court's jury instructions properly stated applicable law; other issues.
US v. Saul Ramirez-Castillo (Blatt)		
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13-1579	Briefs	CIVIL: Denial of motion to amend complaint; exclusion of expert witness; other issues in Section 1983 action arising out of patient's murder at state mental hospital.
Denise Wilkins v. Vicki Montgomery (Gibney)		

PANEL V
Gold Courtroom (Room 348)
9:30 a.m.

Tuesday, March 18, 2014

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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13-0284 [Briefs](#)
In re: Tadd Vassell

SECTION 2255: Whether Miller v. Alabama, 132 S. Ct. 2455 (2012) recognized a new rule of constitutional law that applies retroactively on collateral review of movant's sentence.

13-0288 [Briefs](#)
In re: Jeremiah Sloan

SECTION 2255: Whether Miller v. Alabama, 132 S. Ct. 2455 (2012) recognized a new rule of constitutional law that applies retroactively on collateral review of movant's sentence.

12-4910 [Briefs](#)
US v. Frank Marfo
(Garbis)

CRIMINAL: Multiple issues arising out of convictions of murder for hire and other offenses.

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

Wednesday, March 19, 2014

REVD 3/5/14

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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13-1839 [Briefs](#)
Joyce Barlow v. Colgate Palmolive Company
(Nickerson)

Associations: 13-1840

CIVIL: Whether the district court correctly concluded that it lacked jurisdiction to vacate its orders remanding to state court previously removed actions.

12-5007 [Briefs](#)
US v. Adetokunbo Adepoju
(Garbis)

CRIMINAL: Sufficiency of the evidence supporting convictions for bank fraud and aggravated identity theft; propriety of Guidelines enhancement for use of sophisticated means.

11-2416 [Briefs](#)
Virginia CWP Fund v. Ardis Gump

BLACK LUNG: Whether agency erred by imposing the limited rebuttal methods applicable to the Secretary on operators.

PANEL II
Butzner En Banc Courtroom 201
9:30 a.m.

Wednesday, March 19, 2014

REVD 3/5/14

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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13-1868	Briefs	CIVIL PROCEDURE: Whether this court has jurisdiction over the appeal; whether the district court possessed subject matter jurisdiction.
Kathleen Wood v. Crane Co (Blake)		
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13-1629	Briefs	ATTORNEY'S FEES: Did the district court abuse its discretion in finding "special circumstances" would render an award of attorney's fees unjust.
Steven Lefemine v. Dan Wideman (Herlong)		
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13-4212	Briefs	CRIMINAL: Whether evidence sufficient for 18 U.S.C. section 924(c) conviction; tainting of juror; obstruction sentence enhancement.
US v. Stanley Partman (Anderson)		
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13-4220	Briefs	CRIMINAL: Whether the district court erred by denying motions for mistrial and motion for new trial; other issues.
US v. Ildefonso Flores (Cogburn)		

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

Wednesday, March 19, 2014

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12-6941 [Briefs](#)
US v. Isabel Gonzalez
(Boyle)

SECTION 2255: Whether the court abused its discretion in reopening section 2255 proceedings; other issues.

13-6781 [Briefs](#)
Nathan Webb v. James Smith
(Boyle)

FOURTH AMENDMENT: Whether appellant failed to state a claim that his home was improperly searched without consent.

13-1460 [Briefs](#)
Shawn Massey v. J. Ojaniit
(Conrad)

CIVIL: In action against officers involved in arrest and prosecution of defendant convicted but subsequently exonerated, whether grant of summary judgment was premature or erroneous.

13-4282 [Briefs](#)
US v. James Johnson
(Moon)

CRIMINAL LAW: Whether the district court constructively amended count one of the indictment; whether admission of documents regarding child support was an abuse of discretion.

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

Wednesday, March 19, 2014

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13-4349 [Briefs](#)
US v. Stephen McFadden
(Conrad)

CRIMINAL: Constitutional challenge to Controlled Substance Analogue Act, 21 U.S.C. section 802(32); sufficiency of the evidence; other issues.

13-4457 [Briefs](#)
US v. Raymond Collins
(Hilton)

CRIMINAL: Challenges to district court's rulings on motion to suppress, voir dire, admissibility of evidence, motion for judgment of acquittal, closing argument, jury instructions, and calculation of drug quantity.

Associations: 13-4458

13-6814 [Briefs](#)
Thomas Prousalis, Jr. v. Charles Moore
(Gibney)

SECURITIES: Whether Supreme Court's decision in Janus Capital Group, Inc. applies to criminal cases involving securities fraud.

PANEL V
Gold Courtroom (Room 348)
9:30 a.m.

Wednesday, March 19, 2014

REVD 3/5/14

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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13-4396 [Briefs](#)
US v. Jori Ferguson
(Hudson)

SUPERVISED RELEASE REVOCATION: Whether certificate of analysis was properly admitted without testimony of forensic scientist; other issues.

13-4371 [Briefs](#)
US v. Josephine Adams
(Bailey)

CRIMINAL: Whether the district court denied defendant an opportunity to present material and exculpatory testimony; other issues.

13-4136 [Briefs](#)
US v. Danilo Garcia
(Blake)

CRIMINAL: Whether the district court properly permitted an FBI agent to provide expert testimony regarding drug code language used in recorded telephone conversations; other issues.

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

Thursday, March 20, 2014

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13-1626 [Briefs](#) CIVIL: Whether the district court erred in finding that defendant did not regard plaintiff as disabled under the Americans with
Leon Coursey v. University of MD Eastern Shore Disabilities Act.
(Blake)

13-4462 [Briefs](#) CRIMINAL: Whether district court abused discretion in denying competency hearing; challenge to Rule 11(c)(1)(C) sentence.
US v. Dwayne Frazier
(Garbis)

PANEL II
Butzner En Banc Courtroom 201
8:30 a.m.

Thursday, March 20, 2014

REVD 2/6/14

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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13-4079 [Briefs](#)
US v. Gabriel Gutierrez
(Reidinger)

SENTENCING GUIDELINES: Whether "crime of violence" enhancement was plain error.

13-1702 [Briefs](#)
Nora Collins v. Pond Creek Mining Company

BLACK LUNG: Whether ALJ errantly found evidence failed to show that pneumoconiosis contributed to death.

13-4108 [Briefs](#)
US v. Charles Barefoot, Jr.
(Boyle)

CRIMINAL: Competence of defendant to represent himself; admissibility of evidence under Rule 404(b); sufficiency of evidence; other issues.

PANEL III
Tan Courtroom (Room 223)
8:30 a.m.

Thursday, March 20, 2014

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12-5045 [Briefs](#)
US v. Benjamin Carter
(Copenhaver)

CRIMINAL: Whether government established requisite relationship between section 922(g)(3) prohibition against drug users possessing firearms and goal of reducing gun violence.

13-4039 [Briefs](#)
US v. Arthur Weiss
(Schroeder)

CIVIL: Whether the district court erred in applying a two-level enhancement for abusing a position of trust pursuant to U.S. Sentencing Guidelines Manual section 3B1.3 (2012); other issues.

13-1672 [Briefs](#)
US ex rel. Mike Ahumada v. NISH
(Hilton)

FALSE CLAIMS ACT: Whether plaintiff adequately showed he was an "original source." Other issues.

PANEL IV
Tweed Courtroom (Room 414-D)
8:30 a.m.

Thursday, March 20, 2014