

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (10/27/2015 - 10/29/2015 Session)

15-1182 [Briefs](#)
NLRB v. Pessoa Construction Company

LABOR: Whether the National Labor Relations Board erred in determining amount of back pay award; other issues.

Associations: 15-1251

15-1063 [Briefs](#)
Severn Peanut Co., Inc. v. Industrial
(Boyle)

CIVIL: Whether summary judgment was properly entered for defendants based on contributory negligence; other issues.

14-2013 [Briefs](#)
Eddy Etienne v. Loretta E. Lynch

IMMIGRATION: Whether alien subject to administrative removal must raise legal objections to exhaust administrative remedies.

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

Tuesday, October 27, 2015

REVD 10/23/15

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (10/27/2015 - 10/29/2015 Session)

14-7607	Briefs	HABEAS: Whether section 2241 is sole avenue for challenging restitution order; collection of restitution through Inmate Financial Responsibility Program.
Jeremy Fontanez v. Terry O'Brien (Stamp)		
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14-2145	Briefs	CIVIL: Whether district court erred when it denied plaintiff's motion to amend her complaint; other issues.
L. Hall v. Greystar Management Services (Bredar)		
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14-2255	Briefs	SOCIAL SECURITY: Whether vocational expert's testimony created apparent conflict requiring resolution by administrative law judge.
Jeffrey Pearson v. Carolyn Colvin (Morgan)		
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14-7072	Briefs	HABEAS: Whether counsel was ineffective in failing to seek pretrial suppression of statement; cause and prejudice for procedural default.
Eric Grueninger v. Director, Virginia (Gibney)		

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

Tuesday, October 27, 2015

REVD 8/24/15

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (10/27/2015 - 10/29/2015 Session)

14-6449 [Briefs](#)
US v. Ishmael Santiago
(Boyle)

POST-CONVICTION: Was counsel ineffective at Rule 11 hearing, sentencing and direct appeal for failing to object to incorrect advisal of penalties.

14-1622 [Briefs](#)
Rose Lorenzo v. Prime Communications,
(Howard)
Associations: 14-1727

CLASS ACTION: Whether district court erred in denying motion to direct arbitration; whether the appeal of the grant of class certification is timely; related issues.

14-2079 [Briefs](#)
Whitney Stephenson v. Pfizer, Incorporated
(Schroeder)

EMPLOYMENT: Whether driving, rather than travel, is essential job function of pharmaceutical sales representative; reasonability of proposed accommodations.

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

Tuesday, October 27, 2015

REVD 10/21/15

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (10/27/2015 - 10/29/2015 Session)

14-2237 [Briefs](#)
Garrett Fox v. Carolyn Colvin
(Cogburn)

SOCIAL SECURITY: Whether ALJ adequately explained determination that claimant's impairment did not meet Listing criteria and weight accorded to treating physician's opinion.

15-1335 [Briefs](#)
Belmora LLC v. Bayer Consumer Care AG
(Lee)

TRADEMARK LAW: Did the district court err in dismissing Lanham Act complaint and overruling Trademark Trial and Appeal Board's cancellation of trademark registration.

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

Tuesday, October 27, 2015

REVD 10/15/15

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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14-1854	Briefs	LABOR: Whether the appellants' claims that the union failed to keep them informed of their rights were properly brought in a hybrid section 301 suit.
Rebecca Groves v. Comm Workers of (Cain)		
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14-7204	Briefs	CIVIL: Whether prisoner's claims fell within the discretionary function exception of the FTCA.
Joshua Rich v. US (Groh)		
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15-1111	Briefs	LABOR: Employer's challenge to Union's certification as bargaining representative based on allegation of supervisory interference with free choice.
Pac Tell Group, Inc. v. NLRB Associations: 15-1186		
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15-4080	Briefs	GRAND JURY: Whether crime-fraud exception or third-party disclosure exception permitted disclosure of appellants' communications to counsel.
In re: Grand Jury Subpoena (Cogburn)		

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

Tuesday, October 27, 2015

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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14-2111 [Briefs](#)
Samuel Calderon v. GEICO General
(Titus)

FAIR LABOR STANDARDS ACT: Whether insurance fraud investigators are administrative employees exempt from overtime under FLSA.

Associations: 14-2114

14-2141 [Briefs](#)
Brenda Finney v. Carolyn Colvin
(Boyle)

CIVIL: Whether subsequent favorable ALJ decision and/or new medical evidence warranted remand under sentence six of 42 U.S.C. section 405(g) (2012).

14-4044 [Briefs](#)
US v. Nader Modanlo
(Messitte)

CRIMINAL: Multiple issues arising from convictions for violating the International Emergency Economic Powers Act, money laundering, and obstructing bankruptcy proceedings.

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

Wednesday, October 28, 2015

REVD 10/23/15

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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14-1983 [Briefs](#)
Route 231, LLC, John D. Carr v.

TAX: Whether tax court correctly found that transactions constituted a disguised sale of Virginia tax credits, with reportable gains in 2005 tax year.

14-1966 [Briefs](#)
Nancy Williams v. GENEX Services, LLC
(Garbis)

CIVIL: Whether court improperly determined at summary judgment that plaintiff falls under learned professional exemption to Fair Labor Standards Act.

13-4069 [Briefs](#)
US v. Daniel Blue
(Hollander)
Associations: 15-4153

CRIMINAL: Whether evidence that defendant held key to residence is sufficient to show constructive possession of the contents of that apartment.

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

Wednesday, October 28, 2015

REVD 10/15/15

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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15-1191	Briefs	CIVIL RIGHTS: Whether defendants were entitled to qualified immunity in section 1983 action alleging use of excessive force in the execution of an involuntary commitment order.
Estate of Ronald H. Armstrong v. The (Eagles)		
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13-2223	Briefs	IMMIGRATION: Whether it was abuse of discretion denying motion for a continuance; jurisdiction and related issues.
Denise Johnson v. Loretta Lynch Associations: 14-1838		
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14-2036	Briefs	IMMIGRATION: Whether alien's failure to challenge aggravated felon classification in administrative removal notice constitutes failure to exhaust.
Jose Hernandez-Nolasco v. Loretta Lynch Associations: 14-2346		
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14-2115	Briefs	IMMIGRATION: Whether immigration judge erred in finding alien competent to participate in removal proceeding.
Madiagne Diop v. Loretta Lynch		

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

Wednesday, October 28, 2015

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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14-2327 [Briefs](#) INSURANCE: Whether lawsuits filed in 2006 and 2010 constitute "Interrelated Wrongful Acts" under Miller's
W.C. and A.N. Miller Develop v. Continental insurance policy.
(Hazel)

14-2001 [Briefs](#) ADA/RA: Whether Maryland's voting program complies with Title II of the Americans with Disabilities Act and
National Fed of the Blind v. Linda Lamone section 504 of the Rehabilitation Act.
(Bennett)

14-4727 [Briefs](#) CRIMINAL: Whether the district court's sua sponte upward variance is substantively reasonable; other issues.
US v. Charles Edgar Ware
(Bailey)

15-1240 [Briefs](#) AGENCY RULEMAKING: Whether FCC rules implementing 47 U.S.C. 1455(a) are consistent with the statute and
Montgomery County, Maryland v. United with the Tenth Amendment.
Associations: 15-1284

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

Wednesday, October 28, 2015

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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14-4595 [Briefs](#)
US v. Thomas Faulls, Sr.
(Conrad)

CRIMINAL: Whether appellant preserved challenge to requirement that he register as sex offender; if so, whether requirement was properly imposed; other issues.

14-2126 [Briefs](#)
Philip McFarland v. Wells Fargo Bank, N.A.
(Goodwin)

CIVIL: Issues regarding whether contract is unconscionable pursuant to 46A-2-121 of the West Virginia Code.

14-2222 [Briefs](#)
Nestle Dreyer's Ice Cream Co. v. NLRB
Associations: 14-2339

LABOR: Issues regarding whether NLRB's application of "overwhelming-community-of-interest" test in determining union's petitioned-for unit was appropriate.

15-1160 [Briefs](#)
Dennis Bond, Sr. v. Marriott International,
(Titus)

ERISA: Whether employer's plan was maintained primarily for purpose of providing deferred compensation to a select group of management or highly compensated employees.

Associations: 15-1199

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

Wednesday, October 28, 2015

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15-4114 [Briefs](#)
US v. Camden Barlow
(Tilley)

CRIMINAL LAW: Whether district court erred in determining that defendant had requisite predicate conviction to support conviction as felon in possession of a firearm.

14-1853 [Briefs](#)
First South Bank v. Fifth Third Bank NA
(Lewis)
Associations: 14-1917

CIVIL: Cross-appeals from jury verdict for plaintiff on breach of contract and fraud claims arising from loan participation agreement.

14-2268 [Briefs](#)
Evanston Insurance Company v. Agape
(Anderson)

INSURANCE: Whether district court correctly ruled that insurance policy was not void in its entirety due to fraudulent act of one co-insured.

PANEL VI
Blue Courtroom (Room 339)
9:30 a.m.

Wednesday, October 28, 2015

REVD 10/15/15

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (10/27/2015 - 10/29/2015 Session)

14-4418 [Briefs](#)
US v. Christopher Wilson
(Boyle)

CRIMINAL: Whether Rule 11 error affected substantial rights; suppression of GPS tracking evidence.

14-4375 [Briefs](#)
US v. William White
(Turk)

CRIMINAL: Whether district court properly instructed jury as to mental state required under 18 U.S.C. section 875(b), (c) (2012); other issues.

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

Thursday, October 29, 2015

REVD 10/15/15

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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14-4762 [Briefs](#)
US v. Onrey Townes
(Fox)

SENTENCING: Whether district court's failure to explain defendant's revocation sentence rendered it procedurally unreasonable.

14-4902 [Briefs](#)
US v. Shaquille Robinson
(Groh)

CRIMINAL: Whether officers had reasonable suspicion to justify pat down of vehicle passenger during traffic stop.

14-4338 [Briefs](#)
US v. Jean Alvarado
(Urbanski)

CRIMINAL: Propriety of district court's instruction regarding whether distribution of controlled substance resulted in death.

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

Thursday, October 29, 2015

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14-2048 [Briefs](#)
Joyce Anderson v. Consolidation Coal
(Stamp)
EMPLOYMENT: Whether record supports summary judgment on disability discrimination, retaliation claims; role of collective bargaining agreement.

14-4680 [Briefs](#)
US v. David Williams, III
(Harwell)
Associations: 14-4689
CRIMINAL: Whether this court may review an appeal of a sentence imposed pursuant to a Fed. R. Crim. P. 11(c)(1)(C) plea agreement; related issues.

14-4905 [Briefs](#)
US v. Michael Schnittker
(Trenga)
CRIMINAL: Whether prosecution under superseding indictment following guilty plea to one of the counts in the original indictment violated Double Jeopardy Clause.

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

Thursday, October 29, 2015

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14-2299	Briefs	CIVIL: Whether dismissal of qui tam action was proper based on public disclosure bar or failure to bring specific false claim allegations.
United States ex rel. v. Purdue Pharma L.P. (Berger)		
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15-1148	Briefs	FALSE CLAIMS ACT: Whether the district court erred in applying the "public disclosure" and the "original source" provisions of the Act as amended; other issues.
US ex rel Beauchamp v. Academi (Ellis)		
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14-4711	Briefs	CRIMINAL: Whether marital adverse testimony privilege is available when spouse is not defendant; whether district court erred in denying motion for new trial; other issues.
US v. John Bird, Jr. (Reidinger)		

PANEL V
Gold Courtroom (Room 348)
8:30 a.m.

Thursday, October 29, 2015