

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (10/29/2013 - 10/31/2013 Session)

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12-1994	<a href="#">Briefs</a>	CIVIL: Whether the district court properly instructed the jury on excessive force; whether the district court erred by declining to grant plaintiffs' motion for a new trial; other issues.
Jeffrey Gray v. Frederick County, Maryland ( Quarles )		
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13-1058	<a href="#">Briefs</a>	BANKRUPTCY: Whether affirmative defense of "good faith" under 11 U.S.C. section 548(c) was established; whether the trustee was entitled to Ponzi scheme presumption.
Vijay Taneja v. First Tennessee Bank NA ( Mayer )		
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12-2547	<a href="#">Briefs</a>	CIVIL RIGHTS: Whether prohibition against leafletting in close vicinity to arena violated First Amendment rights; other issues.
Aaron Ross v. Wayne Early ( Motz )		
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12-4912	<a href="#">Briefs</a>	CRIMINAL: Whether the district court properly calculated the base offense level by relying on the aggravated assault Guideline; other issues.
US v. Charlie Bryant ( Cogburn )		

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

Tuesday, October 29, 2013

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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12-4469 US v. Keith Simmons ( Conrad )	<a href="#">Briefs</a>	CRIMINAL: Challenge to evidentiary rulings based upon alleged violation of Fifth and Sixth Amendment rights and based on "identity" exception of Rule 404(b); Speedy Trial Act issue.
13-1368 Al Pisano v. Kim Strach ( Mullen )	<a href="#">Briefs</a>	CONSTITUTIONAL LAW: Whether N.C. statute violates appellants' constitutional right to participate in electoral process; other issues.
12-4639 US v. Steven Robinson ( Flanagan )	<a href="#">Briefs</a>	SENTENCING: Whether Robinson invited any error with respect to the district court's determination of the relevant drug weight; challenge to sentencing enhancement.
13-1492 Clear Sky Car Wash LLC v. City of Chesapeake, ( Davis )	<a href="#">Briefs</a>	UNIFORM ACT: Whether suit alleging improper seizure of land and business in violation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act states a cognizable claim; other issues.

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

Tuesday, October 29, 2013

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13-1192	<a href="#">Briefs</a>	IMMIGRATION: Whether the BIA erred in determining that petitioner was not a member of a "particular social group;" other issues.
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13-1406	<a href="#">Briefs</a>	MINE SAFETY: Whether Commissioner erred in applying "not frivolously brought" standard in determining whether award of temporary reinstatement should be tolled by reduction in force; other issues.
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12-2490	<a href="#">Briefs</a>	Section 1983: Whether Maryland's Speed Monitoring System violates Due Process.
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13-4267	<a href="#">Briefs</a>	CIVIL CONTEMPT: Does the "required records doctrine" override Fifth Amendment privilege and require production of foreign bank account records.

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

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12-2387	<a href="#">Briefs</a>	BLACK LUNG: Whether BRB erred in reversing finding that employer's conduct rose to level of fraud on court; whether work product privilege applies to non-testifying experts' reports; other issues.
Mary Fox v. Elk Run Coal Company, Inc.		
Associations:	12-2402	

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13-6358	<a href="#">Briefs</a>	HABEAS CORPUS: Whether the district court erred in considering evidence not presented to the state appellate court and in granting habeas relief.
Maceo Spates v. Harold Clarke ( Jackson )		

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12-2477	<a href="#">Briefs</a>	TITLE VII: Whether evidence was sufficient to find defendant corporation subjected plaintiff to hostile work environment; issues regarding evidentiary rulings and damages.
Vicky Bennett v. CSX Transportation, ( Boyle )		
Associations:	12-2556	

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12-2574	<a href="#">Briefs</a>	LABOR: Whether Federal Labor Relations Authority erred in finding not negotiable a contract proposal giving grievance rights to probationary employees.
NTEU v. FLRA		

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

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12-7121 [Briefs](#)  
US v. Erik Dehlinger  
( Wooten )

SIXTH AMENDMENT: Whether district court correctly denied relief on ineffective assistance of counsel claim that alleged counsel's representation was tainted by conflict of interest.

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12-4935 [Briefs](#)  
US v. Carlos Perez-Perez  
( Fox )

CRIMINAL: Whether the North Carolina crime of taking indecent liberties with a minor qualifies, categorically, as a crime of violence under U.S. Sentencing Guidelines Manual section 2L1.2(b)(1)(A)(ii) (2011).

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12-4940 [Briefs](#)  
US v. James Collins, Jr.  
( Currie )

SENTENCING: Whether the district court erred in applying a four-level enhancement for an organizational or leadership role, USSG section 3B1.1(a); propriety of Guidelines calculation.

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12-2303 [Briefs](#)  
James Durham v. Robert Jones  
( Nickerson )

QUALIFIED IMMUNITY: Whether district court properly denied Sheriff qualified immunity for termination of deputy sheriff.

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

Wednesday, October 30, 2013

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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12-2126 [Briefs](#) TRADEMARK LAW: Did the district court err in its application of the "likelihood of confusion" factors; other issues.  
Swatch AG (Swatch SA) v. Beehive Wholesale,  
( O'Grady )

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13-6228 [Briefs](#) CRIMINAL: Whether Fair Sentencing Act's reduced mandatory minimums for crack cocaine offenders apply in conjunction  
US v. Darnell Black with retroactive amendments to Sentencing Guidelines in section 3582(c)(2) proceedings.  
( Boyle )

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12-2481 [Briefs](#) CIVIL RIGHTS: Whether district court properly denied animal control officer qualified immunity; attorneys fees.  
Eileen McAfee v. Christine Boczar  
( Payne )  
Associations: 13-1088, 13-1356

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

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12-4625 [Briefs](#)  
US v. Henry Stephens  
( Bredar )

CRIMINAL: Whether the district court erred in applying the good faith exception to the exclusionary rule to a warrantless use of a GPS device.

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12-7653 [Briefs](#)  
US v. Vernon Wood  
( Britt )

CIVIL COMMITMENT: Whether the district court's standing order banning ex parte communication between individual and court-appointed mental health examiner violates due process and 18 U.S.C. section 4247; other issues.

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12-2415 [Briefs](#)  
Perini/Tompkins Joint Venture v. ACE  
( Messitte )

INSURANCE: Whether insurer properly denied coverage on claim filed by construction contractor.

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

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REVD 10/23/13

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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12-4484 [Briefs](#)

US v. Kurt Steffen  
( Houck )

GUIDELINES: Whether district court clearly erred in concluding that defendant was a manager or supervisor.

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13-6326 [Briefs](#)

US v. Richard Savage  
( Mullen )

CIVIL COMMITMENT: Whether the appellant was in "legal custody" of Bureau of Prisons within the meaning of 18 U.S.C. section 4248(a).

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13-4171 [Briefs](#)

US v. Reginald Dargan, Jr.  
( Blake )

CRIMINAL: Whether motion to suppress item seized during search should have been granted; whether hearsay statements should have been admitted.

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12-2575 [Briefs](#)

Baltimore City Substance Abuse v. Mayor and  
( Motz )

ZONING LAW: Whether the city's Conditional Ordinance requirement was facially discriminatory under the ADA and FHA; other issues.

Associations: 13-1067

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

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13-4198 [Briefs](#)  
Kim Kinder v. Michael White  
( Johnston )

THERAPIST/PATIENT PRIVILEGE: Whether the district court erred in ordering witness' psychiatric records disclosed for use in criminal proceedings.

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13-1030 [Briefs](#)  
American Civil Liberties Union v. Anthony Tata  
( Fox )

CONSTITUTIONAL LAW: Whether "Choose Life" specialty license plate constitutes government speech; other issues.

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

Wednesday, October 30, 2013

REVD 10/16/13

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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12-2496	<a href="#">Briefs</a>	SECURITIES LAW: Standing and statute of limitations issues regarding Securities Act claims; pleading issues related to scienter and loss causation regarding Securities Exchange Act claims; other issues.
Robert Yates v. Municipal Mortgage & Equity ( Garbis )		
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13-1430	<a href="#">Briefs</a>	FEDERAL PROCEDURE: Whether allegations of negligence by private party in war zone were properly dismissed under "derivative sovereign immunity" defense and "combatant activities" preemption doctrine.
Alan Metzgar v. KBR, Incorporated ( Titus )		
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13-1151	<a href="#">Briefs</a>	DEBT COLLECTION: Whether a debt collector violates 15 U.S.C. section 1692g(a)(3) by stating that a consumer's dispute of a debt must be in writing; other issues.
Dana Clark v. Absolute Collection Service ( Boyle )		
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12-2047	<a href="#">Briefs</a>	CIVIL RIGHTS: Whether police officers were entitled to qualified immunity defense; bystander liability and other issues.
Marqus Stevenson v. City of Seat Pleasant, MD ( Titus )		

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

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12-7298	<a href="#">Briefs</a>	CIVIL SECTION 2255: Whether trial counsel was ineffective for failure to provide defendant with advice regarding plea offers.
US v. Rolando Stockton ( Garbis )		
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12-4612	<a href="#">Briefs</a>	CRIMINAL: Whether the district court erred in denying Bugg's motion to suppress.
US v. Tremayne Bugg ( Wilson )		
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13-1258	<a href="#">Briefs</a>	CIVIL RIGHTS: State law enforcement appeal from denial of qualified immunity in civil rights action arising from arrests on the State House grounds of "Occupy Columbia" members.
Occupy Columbia v. Nikki Haley ( Currie )		
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13-1129	<a href="#">Briefs</a>	FTCA: Propriety of enforcement of release against plaintiff injured when federal employee negligently ran red light.
Debra McMurray v. US ( Dever )		

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

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12-2209 [Briefs](#)  
Company Doe v. Public Citizen  
( Williams )

CONSUMER PRODUCT SAFETY: Whether appellant consumer groups have standing to appeal; did district court err in sealing the case; other issues.

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12-4743 [Briefs](#)  
US v. Marcus Gibbs  
( Gergel )

CRIMINAL: Whether probable cause supported a search warrant issued to obtain GPS information from a cell phone; whether text messages found during search of cell phone were properly admitted; other issues.

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12-2340 [Briefs](#)  
FTC v. Kristy Ross  
( Bennett )

FEDERAL TRADE COMMISSION ACT: Challenges to evidentiary rulings, findings of fact, applicable legal standard for individual liability, and scope of remedy.

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

Thursday, October 31, 2013

REVD 10/25/13

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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13-1134	<a href="#">Briefs</a>	CONSTITUTIONAL LAW: Whether district court erred in granting summary judgment for County against claims that County "flow control" ordinance was facially discriminatory, violated dormant Commerce Clause, violated Equal Protection Clause.
Sandlands C&D LLC v. Horry, County of ( Wooten )		
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12-4191	<a href="#">Briefs</a>	CRIMINAL: Whether probable cause supported vehicle search where drug dog has particularly low accuracy rate; denial of severance; other issues.
US v. Timothy Wilson ( Quarles )		
Associations: 12-4205		
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12-4175	<a href="#">Briefs</a>	CRIMINAL LAW: Limitation of cross-examination of witness; speedy trial; sentencing issues.
US v. James Harris ( Quarles )		
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12-2543	<a href="#">Briefs</a>	COPYRIGHT LAW: Whether use of logo in films, on the internet and in photographs in the team's stadium club level lounge constitute "fair use."
Frederick Bouchat v. Baltimore Ravens Limited ( Garbis )		
Associations: 12-2548		

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

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12-4879 [Briefs](#)  
US v. Herbert Green  
( Conrad )

CRIMINAL: Following Florida v. Harris, 133 S. Ct. 1050, whether drug detection dog's field results were sufficiently reliable that dog's alert provided probable cause for search of vehicle.

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12-2526 [Briefs](#)  
Ronald Bradley v. Christopher Fina  
( Lee )

BANKRUPTCY: Whether bankruptcy court erred in entering sanctions against creditors for violation of the discharge injunction, 11 U.S.C. section 524(a)(2) (2006).

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12-2309 [Briefs](#)  
Maritza Reyes v. Harry Lee Jeffcoat  
( Anderson )

INTERNATIONAL CHILD CUSTODY: Whether district court erred in concluding that, under the Hague Convention, South Carolina rather than Venezuela was the childrens' habitual residence.

PANEL IV  
Tweed Courtroom (Room 414-D)  
9:00 a.m.

Thursday, October 31, 2013

REVD 10/30/13

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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11-4618 [Briefs](#)  
US v. Chinua Shepperson  
( Williams )

CRIMINAL: Whether appellant's rights under 18 U.S.C. section 3005 (2006) or 18 U.S.C. section 3432 (2006) were violated, whether violations constitute reversible error.

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13-1064 [Briefs](#)  
Christine Seney v. Rent-a-Center, Incorporated  
( Bredar )

CONSUMER LAW: Whether Magnuson-Moss Warranty Act prohibits binding arbitration provision.

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12-4416 [Briefs](#)  
US v. Gregory Graves  
( Messitte )

CRIMINAL: Issues regarding Sixth Amendment right to counsel, Speedy Trial Act, and evidentiary rulings.

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

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REVD 10/29/13

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12-2424	<a href="#">Briefs</a>	IMMIGRATION: Whether former member of a gang is a member of a particular social group that is cognizable for purposes of withholding of removal; other issues.
Julio Martinez v. Eric Holder, Jr.		
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12-4949	<a href="#">Briefs</a>	CRIMINAL: In convictions on drug charges, healthcare fraud and failure to pay employment taxes, propriety of evidentiary rulings, sufficiency of evidence, reasonableness of sentence, prosecutorial misconduct.
US v. Paul Boccone ( Hilton )		
Associations: 12-4952		
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12-4374	<a href="#">Briefs</a>	CRIMINAL: Whether the district court erred when it denied motion to suppress; other issues.
US v. Leconie Williams, IV ( Messitte )		
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12-4957	<a href="#">Briefs</a>	CRIMINAL: Multiple issues, including alleged violation of right to speedy trial; propriety of certain evidentiary rulings; and challenge to amount of loss calculated for sentencing.
US v. Mohammed Keita ( Williams )		

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

Thursday, October 31, 2013