

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (09/20/2011 - 09/23/2011 Session)

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09-4851	<a href="#">Briefs</a>	SENTENCING: Whether the district court properly considered information contained in an unincorporated statement of probable cause to determine that defendant's Maryland conviction for second-degree assault was a crime of violence.
US v. Robert Donnell ( Messitte )		
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11-4310	<a href="#">Briefs</a>	CRIMINAL: Multiple challenges to convictions and sentences imposed on charges of piracy on the high seas.
US v. Abdi Dire ( Davis )		
Associations: 11-4311, 11-4313, 11-4317, 11-4312		
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10-1699	<a href="#">Briefs</a>	CIVIL: Whether the district court correctly concluded that the State of Maryland had waived Eleventh Amendment immunity for a county board of education as to monetary claims not exceeding \$100,000.
Hope Lee-Thomas v. Prince George's County ( Day )		
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10-4184	<a href="#">Briefs</a>	CRIMINAL: Whether a modified categorical approach was appropriate, in light of United States v. Rivers, 595 F.3d 558 (4th Cir. 2010), to evaluate Spence's convictions under 18 U.S.C. Section 2252A(b)(2).
US v. Troy Spence ( Seymour )		

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

Tuesday, September 20, 2011

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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10-1984 [Briefs](#) IMMIGRATION: Whether BIA used correct legal standard reviewing the IJ's finding that petitioner was likely to be tortured.  
James Turkson v. Eric Holder, Jr.

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10-2015 [Briefs](#) BANKRUPTCY: Challenge to third-party release provisions in confirmed plan of reorganization, affirmed by district court.  
John Behrmann v. National Heritage Foundation  
( Hilton )

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09-4938 [Briefs](#) CRIMINAL: Whether sufficient evidence supported convictions for transportation fo child pornography, whether charges  
US v. Daniel Buczkowski  
( Fox )  
against Appellant were multiplicitous, propriety fo consecutive sentences.

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10-2038 [Briefs](#) CONTRACT: Whether the district court erred in finding no contract on the ground that the parties had reached no mutual assent  
McKay Consulting Incorporated v. Rockingham  
( Conrad )  
to a complete and definite set of essential terms.

PANEL II  
Room 201 (Green)  
9:30 a.m.

Tuesday, September 20, 2011

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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10-1245	<a href="#">Briefs</a>	FEDERAL TORT CLAIMS ACT: Whether district court erred in rejecting reversionary trust as remedy for payment of future damages.
Andrew Cibula v. US ( Lee )		
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09-1809	<a href="#">Briefs</a>	CIVIL: Which state law applied to claim; whether program awards were considered wages or were otherwise owed to plaintiff; other issues.
Hillary Kunda v. C.R. Bard, Incorporated ( Garbis )		
<hr/>		
07-4059	<a href="#">Briefs</a>	CRIMINAL LAW: Numerous issues regarding trial, sentencing and forfeiture rulings.
US v. Learley R. Goodwin ( Titus )		
Associations:	07-4060, 07-4062, 07-4063, 07-4080, 07-4115	
<hr/>		
10-5301	<a href="#">Briefs</a>	FORFEITURE LAW: Whether motion for return of forfeited property was timely; whether district court had jurisdiction to enter forfeiture orders; other issues.
US v. Paulette Martin ( Titus )		
Associations:	10-5304, 10-5306	

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

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10-1907	<a href="#">Briefs</a>	CARMACK AMENDMENT: Whether non-compliance with claim- and lawsuit-filing deadlines precludes indemnity action; other issues.
Dominion Resources Services v. 5 K Logistics, ( Spencer )		
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10-1730	<a href="#">Briefs</a>	Title VII: Whether plaintiff's apparent clerical errors in EEOC Charge and related documents divested district court of subject matter jurisdiction.
Victoria Tillbery v. Kent Island Yacht Club, Inc. ( Blake )		
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10-1441	<a href="#">Briefs</a>	CIVIL: Whether Principal Life Insurance Company's interpretation of Fortier's disability insurance policy was reasonable.
Kenneth Fortier v. Principal Life Insurance Co. ( Dever )		
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10-1788	<a href="#">Briefs</a>	TAX LAW: Issues regarding change in method of accounting for late fees; deduction for estimated cost of reward coupons; evidentiary ruling.
Capital One Financial Corp v. Commissioner		

PANEL IV  
Room 414-D (Tweed)  
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10-1710 [Briefs](#) CIVIL: Whether the district court correctly concluded that the exclusion provisions of a homeowner's insurance policy applied to  
Travco Insurance Company v. Larry Ward  
( Doumar ) dwelling losses due to use of sulfide-emitting drywall; other issues.

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10-1207 [Briefs](#) INVESTMENT COMPANY ACT: Issues regarding standing and available remedies for violation of the Act.  
Gloria Steinberg v. Janus Capital Management  
( Motz )

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10-1693 [Briefs](#) TELECOMMUNICATIONS ACT: Whether plaintiff had standing to bring suit against incumbent local exchange carrier.  
CGM LLC v. BellSouth Telecommunications  
( Conrad )

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

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10-0007 [Briefs](#) HABEAS CORPUS. Challenge to capital conviction and sentence based on the government's use of allegedly unsound scientific evidence.  
US v. Dustin Higgs  
( Messitte )

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10-2382 [Briefs](#) IMMIGRATION LAW: Whether Matter of SilvaTrevino is entitled to Chevron deference; whether BIA erred in its application of this administrative decision.  
Ricardo Prudencio v. Eric Holder, Jr.

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11-1095 [Briefs](#) IMMIGRATION LAW: Whether conviction qualifies as a crime involving moral turpitude; validity of Silva-Trevino analysis & whether it may be applied retroactively.  
Abdul Waheed v. Eric Holder, Jr.

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

Wednesday, September 21, 2011

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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10-1473 [Briefs](#) INSURANCE: Whether claims were based on covered professional accounting services or excluded errors or omissions of insured  
Trice Geary & Myers LLC v. CAMICO Mutual as agent or broker of insurance products.  
( Quarles )

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10-1794 [Briefs](#) IMMIGRATION: Whether conviction of distribution of cocaine in drug-free zone qualifies as aggregated felony precluding  
Dung Phan v. Eric Holder, Jr. naturalization where conviction was under D.C. Youth Rehabilitation Act and subsequently was set aside.  
( Ellis )

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10-4282 [Briefs](#) CRIMINAL: Admission of evidence based upon lost search warrant that district court determined existed and was valid;  
US v. David Watts prosecutorial misconduct during closing; amount of drugs; role enhancement; other issues.  
( Wooten )

Associations: 10-4283

PANEL II  
Room 201 (Green)  
9:30 a.m.

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10-2294	<a href="#">Briefs</a>	CONSTITUTIONAL LAW: Challenge to the constitutionality of North Carolina statute prohibiting lobbyists from making campaign contributions.
Sarah Preston v. Larry Leake ( Flanagan )		
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09-4743	<a href="#">Briefs</a>	CRIMINAL: Whether denial of Franks v. Delaware hearing was error; propriety of 1200-month sentence, based on \$126 million loss; denial of motions to dismiss certain counts in indictment and for continuance.
US v. Edward Okun ( Payne )		
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10-2194	<a href="#">Briefs</a>	IMMIGRATION: Whether immigration judge failed to properly consider independent evidence supporting past persecution; related issues.
Coretha Tassi v. Eric Holder, Jr.		

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

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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10-1721	<a href="#">Briefs</a>	MARITIME: Propriety of grant of summary judgment on Jones Act claims of negligence, unseaworthiness, and vicarious liability, and awarding property damage counterclaim.
Charles Dise v. Express Marine, Incorporated ( Blake )		
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09-5152	<a href="#">Briefs</a>	CRIMINAL: Whether stolen firearms enhancement was applicable absent evidence defendant knew the firearm was stolen; whether prior conviction was a "crime of violence" under the Armed Career Criminal Act; other issues.
US v. Daryl Taylor ( Blake )		
Associations: 10-4054		
<hr/>		
11-0194	<a href="#">Briefs</a>	POST-CONVICTION RELIEF: Whether the rule from Graham v. Florida, 130 S. Ct. 2011 (2010), has been made retroactive to cases on collateral review.
In re: Ronald Evans		

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

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09-4368	<a href="#">Briefs</a>	CRIMINAL: Whether sufficient evidence supports Darby's drug-related convictions; other issues.
US v. Michael Darby ( Seymour )		
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10-1364	<a href="#">Briefs</a>	ERISA: Whether Pension Plan Trustees breached fiduciary duty in connection with losing investment decisions.
Plasterer's Local Union No. 96 v. Edgar Pepper ( Messitte )		
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10-1056	<a href="#">Briefs</a>	CIVIL: Whether the district court erred in finding res judicata barred claims raised by Plaintiffs in second civil action; other issues
Alexander Zeno v. US ( Chasanow )		
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10-4626	<a href="#">Briefs</a>	CRIMINAL: Whether district court erred in admitting evidence of marital infidelity, financial irresponsibility, other prior acts; sufficiency of the evidence; application of murder cross-reference; reasonableness of 400-year sentence.
US v. Timothy Poole ( Harwell )		

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

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09-1496	<a href="#">Briefs</a>	FORFEITURE: Whether district court erred in granting summary judgment of forfeiture of currency.
US v. Currency, U.S., \$147,900.00 ( Beaty )		
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10-1653	<a href="#">Briefs</a>	Section 1983: Propriety of Fed. R. Civ. P. 12(b)(6) dismissal of due process claims relating to City employee's reinstatement to a different position.
Cory Hall v. City of Newport News ( Smith )		
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10-1920	<a href="#">Briefs</a>	IMMIGRATION: Whether substantial evidence supports finding there was no nexus between fear of persecution and a protected ground.
Ezgihibu Haile v. Eric Holder, Jr.		

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Room 412 (Red)  
9:30 a.m.

Thursday, September 22, 2011

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10-2007 [Briefs](#) TRADEMARK LAW: Numerous issues related to trademark infringement, trademark dilution and unjust enrichment claims.  
Rosetta Stone LTD v. Google, Incorporated  
( Lee )

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10-2068 [Briefs](#) CONSTITUTIONAL LAW: Whether condition for ballot access imposed on unaffiliated candidates for U.S. House of  
Bryan Greene v. Gary Bartlett  
( Mullen )

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09-2174 [Briefs](#) ARBITRATION: Propriety of the district court's confirmation of the arbitrator's Class Determination Award.  
Genus Credit Management Corp. v. Laverne  
( Motz )

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08-5030 [Briefs](#) CRIMINAL: Whether district court erred in admitting statements from other conspiracy; denial of severance; propriety of Hobbs  
US v. Bobby Medford  
( Ellis )

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Room 201 (Green)  
9:30 a.m.

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08-1271 [Briefs](#) IMMIGRATION: Whether the petitioners knowingly "encouraged, induced, assisted, or aided" their children's illegal entry into the United States.  
Ricardo Ramos v. Eric Holder, Jr.

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09-4901 [Briefs](#) CRIMINAL: Whether district court erred in denying Braxton's motion to suppress based on its findings that initial stop of vehicle and pat-down of Braxton, a passenger in the vehicle, were proper; other issues.  
US v. David Braxton  
( Quarles )

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10-1889 [Briefs](#) IMMIGRATION: Whether substantial evidence supports the agency's adverse credibility determination.  
Pulcherie Djadjou v. Eric Holder, Jr.

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10-1183 [Briefs](#) MEDICAL MALPRACTICE: Whether under Virginia law an expert physician can offer standard of care opinions as to nurses.  
Latarsha Creekmore v. Maryview Hospital  
( Morgan )

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

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10-2122	<a href="#">Briefs</a>	LABOR: Whether the Board erred in finding employees engaged in protected concerted activity.
NLRB v. White Oak Manor		
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10-1278	<a href="#">Briefs</a>	CIVIL: Whether the district court erred in granting defendant's summary judgment motion on Mullen's disability discrimination and harassment claims; other issues.
Lisa Mullen v. John McHugh ( Chambers )		
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10-4069	<a href="#">Briefs</a>	CRIMINAL: Whether the district court properly denied motion for judgment of acquittal, proposed entrapment instruction, motions for separate trial and change of counsel; sentencing.
US v. James Hackley, IV ( Conrad )		
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10-1821	<a href="#">Briefs</a>	IMMIGRATION: Whether the Board of Immigration Appeals abused its discretion in denying motion to reopen and remand.
Wanrong Lin v. Eric Holder, Jr.		

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Room 414-D (Tweed)  
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10-2059 [Briefs](#) IMMIGRATION: Whether substantial evidence supports the agency's finding that petitioner failed to establish that he was Gualberto Zuriel Cruz-Machorro v. Eric Holder, Jr. persecuted on account of his membership in a particular social group.

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10-1253 [Briefs](#) TORT LAW: Issues relating to proof of fraud, damages and punitive damages.  
Paul Morrell, Incorporated v. Kellogg Brown &  
( Trenga )

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10-1732 [Briefs](#) BANKRUPTCY LAW: Whether bankruptcy court's order regarding trustee's motion to dismiss case under 11 U.S.C. section 707(b)(2) and (b)(3) is a final appealable order.  
W. McDow, Jr. v. David V. Dudley  
( Wilson )

PANEL V  
Room 339 (Blue)  
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10-4183 [Briefs](#) FOURTH AMENDMENT: Whether the district court erred in denying defendant's motion to suppress evidence and statements.  
US v. Corey Felder  
( Blake )

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10-4256 [Briefs](#) FOURTH AMENDMENT: Whether strip search incident to arrest was reasonable.  
US v. Joseph Edwards  
( Blake )

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09-1887 [Briefs](#) CIVIL RIGHTS: Was police officer entitled to qualified immunity in this 42 U.S.C. section 1983 action; other issues.  
Alan Cilman v. M. Reeves  
( Lee )  
Associations: 09-1920

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10-4744 [Briefs](#) CRIMINAL LAW: Various issues related to revocation of supervised release of felon subject to deportation.  
US v. Christopher Blidee  
( Reidinger )

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

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09-4968 [Briefs](#) CRIMINAL: Whether motion in limine and Rule 404(b) evidence were proper; sufficiency of the evidence; constitutionality of statute; propriety of trial judge's questioning of defendant at trial.  
US v. Richard Garries  
( Smith )

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10-4084 [Briefs](#) CRIMINAL LAW: Multiple issues arising out of drug conspiracy convictions.  
US v. Leopoldo Cabrera-Beltran  
( Brinkema )

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10-4885 [Briefs](#) CRIMINAL: Whether district court erred in finding 18 U.S.C. Section 922(h) applies only to persons employed for compensation.  
US v. Richard Weaver  
( Johnston )

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10-4490 [Briefs](#) CRIMINAL: Whether district court erred in allowing expert and lay witnesses to testify about securities law; application of Fed. R. Evid. 404(b); instructions; sentencing.  
US v. Phillip Offill, Jr.  
( O'Grady )

PANEL II  
Room 201 (Green)  
8:30 a.m.

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09-4150 [Briefs](#)  
US v. Jose Perez  
( Conrad )

CRIMINAL: Whether obstruction of justice enhancement was properly applied; whether harmless error review may be conducted by appellate court when government has failed to argue harmlessness.

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10-4518 [Briefs](#)  
US v. Saul Guijon-Ortiz  
( Copenhaver )

CRIMINAL: Whether district court erred in denying motion to suppress evidence obtained after law enforcement contacted Immigration and Customs Enforcement to verify information contained on Permanent Resident Card.

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

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10-5013	<a href="#">Briefs</a>	CRIMINAL: Constitutionality of 18 U.S.C. Section 1028, unlawful production of identification that is or appears to be issued by the United States.
US v. Richard Jaensch ( Ellis )		
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10-5318	<a href="#">Briefs</a>	SECOND AMENDMENT: Whether 18 U.S.C. Section 922(g)(9), which prohibits the possession of a firearm by a domestic violence misdemeanant, is constitutional.
US v. Mark Staten ( Copenhaver )		
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09-4756	<a href="#">Briefs</a>	CRIMINAL: Whether district court erred in denying motion to suppress; whether district court erred in calculating tax loss; other issues.
US v. Jody Smith, Sr. ( Turk )		
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10-5028	<a href="#">Briefs</a>	SENTENCING: Whether district court correctly determined that two prior convictions for breaking and entering under Virginia law were not convictions of a violent felony under the Armed Career Criminal Act.
US v. John Foster ( Jones )		

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

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10-4167	<a href="#">Briefs</a>	CRIMINAL: Whether the district court erred in denying appellant's motions to suppress and for a new trial; other issues.
US v. Remone Robinson ( Voorhees )		
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08-4696	<a href="#">Briefs</a>	CRIMINAL. Whether caution data from dispatcher concerning passenger in stopped vehicle justified patdown search of passenger.
US v. Obie Powell ( Messitte )		
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06-5009	<a href="#">Briefs</a>	CRIMINAL. Whether, under <i>Melendez-Diaz v. Massachusetts</i> , 129 S. Ct. 2527 (2009), testimony about DNA test results by lab supervisor violated Confrontation Clause.
US v. Kevin T. Summers ( Messitte )		
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10-4676	<a href="#">Briefs</a>	CRIMINAL LAW: Whether the indictment sufficiently alleged a violation of the statute; related issues.
US v. Anthony Tracy ( Brinkema )		

PANEL V  
Room 339 (Blue)  
8:30 a.m.

Friday, September 23, 2011