

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

09-4049 [Briefs](#)
US v. Randolph Williams
(Herlong)

CRIMINAL: Whether district court abused discretion in accepting stipulation without defendant's consent; where government concedes error, whether conviction must be vacated.

09-2086 [Briefs](#)
ACLU v. Eric H. Holder, Jr.
(O'Grady)

FALSE CLAIMS ACT: First Amendment challenge to the secrecy provisions of the False Claims Act; other issues.

08-1672 [Briefs](#)
Ali Darvishian v. Pete Geren
(Ellis)

TITLE VII: National origin and religious discrimination; retaliation.

Tuesday, September 21, 2010

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

10-6496 [Briefs](#) HABEAS: Whether the Adam Walsh Act's commitment provision for "sexually dangerous persons," 28 U.S.C. § 4248, violates the
Gerald Timms v. Tracy Johns Due Process Clause; other issues.
(Boyle)

07-7671 [Briefs](#) CONSTITUTIONAL LAW: Whether 18 U.S.C. Section 4248 or its application denies equal protection, procedural or substantive
US v. Graydon Comstock, Jr. due process, or any other constitutional right.
(Britt)
Associations: 07-7673, 07-7672, 07-7674, 07-7675

08-5223 [Briefs](#) CRIMINAL: Whether district court erred in denying Hargrove's motion to suppress, and whether district court considered
US v. John Hargrove improper factors in sentencing Hargrove.
(Bailey)

Tuesday, September 21, 2010

PANEL II
Courtroom 3
Room 223 (Tan Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

09-1892	Briefs	CONSTITUTIONAL LAW: Constitutional challenge to college sexual harassment policy and code of conduct; standing and mootness issues.
Rock for Life-UMBC v. Freeman Hrabowski (Motz)		
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10-1000	Briefs	CONTRACT LAW: Issues relating to construction of two contracts, including forum selection clauses.
Albemarle Corporation v. AstraZeneca UK Ltd (Seymour)		
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09-8245	Briefs	HABEAS CORPUS: Propriety of ineffective assistance of counsel finding and of ruling that state court's finding of no prejudice was contrary to clearly established precedent.
Derek Tice v. Gene Johnson (Williams)		
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09-1551	Briefs	CIVIL: Whether the district court erred in failing to follow "Rule of Differing Capacities" and granting defendants' motion to dismiss; other issues.
James Brooks v. Howard Arthur, Sr. (Moon)		

Tuesday, September 21, 2010

PANEL III
Courtroom 4
Room 414-D (Tweed Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

09-1782	Briefs	IMMIGRATION: Whether Immigration Judge has authority to terminate removal proceedings despite holding in In re: Acosta-Hidalgo, 24 I. & N. Dec. 103 (BIA 2007).
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09-7561	Briefs	CRIMINAL: Whether district court may entertain § 3582(c) motion when parties entered into a binding plea agreement under Fed. R. Crim. P. 11(c)(1)(C).
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09-1474	Briefs	ENVIRONMENTAL LAW: Whether injunction properly issued against state department of environmental protection regarding alleged violations of federal Clean Water Act.
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09-4527	Briefs	CRIMINAL: Fourth Amendment; whether burglary of commercial establishment under North Carolina law is a predicate offense for ACCA purposes.

Tuesday, September 21, 2010

PANEL IV
Courtroom 5
Room 339 (Spencer)
9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

08-5207 [Briefs](#) CRIMINAL LAW: Whether the district court abused its discretion in denying defendant's request for new counsel; other issues.
US v. Paul Osuji
(Thornburg)
Associations: 08-5209

09-1540 [Briefs](#) CONSTITUTIONAL LAW: Whether Maryland statute regulating adult entertainment in establishments that serve alcohol violates
Legend Night Club v. Dennis Miller
(Garbis)
the First and Fourteenth Amendments; severability issue.

10-6077 [Briefs](#) HABEAS CORPUS: Did the district court err in granting habeas relief.
Lamont Underwood v. Sid Harkleroad
(Mullen)

Tuesday, September 21, 2010

PANEL V
Courtroom 6
Room 348 (Payne)
9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

07-0014	Briefs	HABEAS CORPUS: Numerous issues arising out of state capital murder conviction and sentencing.
Elmore v. Ozmint (Norton)		
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08-1851	Briefs	CIVIL: Whether North Carolina Unfair and Deceptive Trade Practices Act is preempted by Fair Credit Reporting Act; whether debt collection actions caused actual damages.
Charlene Ross v. FDIC (Dever)		
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09-1839	Briefs	TELECOMMUNICATIONS LAW: Whether the district court erred in ruling that the Maryland Public Service Commission had misconstrued federal law and the parties' interconnection agreement.
Verizon Maryland, Incorporated v. Core (Motz)		
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09-1188	Briefs	CIVIL: In granting defendants summary judgment, did district court err in failing to consider evidence submitted in opposition to defendants' initial motion for summary judgment.
Natasha Sinclair v. Mobile 360, Incorporated (Howell)		
Associations: 09-1189		

Wednesday, September 22, 2010

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

08-4764	Briefs	CRIMINAL: Whether the district court abused its discretion in refusing to give a defendant's requested instruction to the jury; other issues.
US v. Kevin Hickman (Quarles)		
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06-1714	Briefs	CLEAN WATER ACT: Whether plaintiffs used the area affected by the challenged activity thereby establishing standing under the Clean Water Act.
Friends of the Earth v. Gaston Copper (Perry)		
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09-1817	Briefs	ADMIRALTY: Whether district court erred in dismissing various admiralty claims for lack of jurisdiction; failure to state a claim.
Barna Conshipping, S.L. v. 2,000 Metric Tons (Morgan)		
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09-2064	Briefs	ARBITRATION: Challenge to district court's order confirming final arbitration award and denying confirmation of partial arbitration award.
AO Techsnabexport v. Globe Nuclear Services (Williams)		

Wednesday, September 22, 2010

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

09-1200 [Briefs](#) CIVIL: Propriety of ruling that expert witness' testimony was inadmissible in products liability action.
Sharon Peters-Martin v. Navistar International
(Chasanow)

09-1449 [Briefs](#) CIVIL: Whether the district court erred in granting summary judgment in favor of plaintiffs in IDEA action.
Laura Lorenzen v. Montgomery County Board of
(Williams)

Wednesday, September 22, 2010

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
9:30 a.m.

REVD 9/21/10

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

08-5118	Briefs	CRIMINAL: Whether the district court erred in admitting evidence, denying motions for mistrial; other issues.
US v. Shamane James (Chasanow)		
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09-5166	Briefs	CONSTITUTIONAL LAW: Whether exclusionary rule should apply where vehicle search occurred prior to Supreme Court decision in Arizona v. Gant.
US v. Laury Wilks, Jr. (Seymour)		
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09-4932	Briefs	CRIMINAL: Numerous issues arising from conviction of physician for health care fraud.
US v. John Sharp (Keeley)		
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09-4572	Briefs	SENTENCING GUIDELINES: Prior crime of violence, USSG Æ§ 2K2.1(a)(4)(A); possession of firearm for lawful sporting purposes; explanation of sentence.
US v. James Clay (Thornburg)		

Wednesday, September 22, 2010

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

09-1788 [Briefs](#) CIVIL: Whether the insurer provided the owner of a life insurance policy sufficient notice of its pending lapse for failure to pay
Denise Russell v. Nationwide Life Insurance Compthe premium; other issues.
(Stillman)

10-1496 [Briefs](#) FIRST AMENDMENT: Whether district court properly dismissed complaint alleging violations of establishment clause arising out
Peter Glassman v. Arlington County, Virginia of county's low income housing project with local church.
(Hilton)

09-4263 [Briefs](#) CRIMINAL: Sufficiency of the evidence; sentencing issues.
US v. Eddie Rogers
(Tilley)
Associations: 09-4426

09-5158 [Briefs](#) CRIMINAL: Whether evidence was sufficient to support conviction for possession of a firearm by an unlawful drug user or
US v. David Sperling addict, under 18 U.S.C. § 922(g)(3).
(Beaty)

Wednesday, September 22, 2010

PANEL V
Courtroom 5
Room 339 (Spencer)
9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

08-1740 [Briefs](#)
Shirley Barbour v. International Union
(Davis)

Rehearing En Banc

Thursday, September 23, 2010

En Banc Courtroom (Green Carpet)
Room 201
9:00 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

09-2095 [Briefs](#) ADMINISTRATIVE LAW: Whether defendant was a firearms manufacturer within the meaning of 18 U.S.C. Section 921(a)(10).
Allan Broughman v. Larry Carver
(Wilson)

09-7128 [Briefs](#) CRIMINAL: Whether district court abused its discretion in denying motion for reduction of sentence under 18 U.S.C. §
US v. Erron Robinson
(Ellis)

09-6244 [Briefs](#) CRIMINAL LAW: Sufficiency of reason for denial of 18 U.S.C. Section 3582(c)(2) motion.
US v. Omar Jackson
(Spencer)

Thursday, September 23, 2010

PANEL I
Courtroom 1
Room 412 (Red Carpet)
After the en banc session

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

10-4234 [Briefs](#)
US v. Melvin Taylor
(Williams)

FOURTH AMENDMENT: Whether officer's warrantless entry into home was justified by exigent circumstances or the community caretaker function.

09-4175 [Briefs](#)
US v. Demetrious Moore
(Herlong)

CRIMINAL: Whether evidence of intent sufficient to sustain carjacking conviction, whether sentencing enhancements for bodily injury and obstruction of justice properly imposed; other issues.

Thursday, September 23, 2010

PANEL II
Courtroom 2
Room 201 (Green Carpet)
After the en banc session

REVD 9/15/10

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

09-4821 [Briefs](#)
US v. Jennifer Longwell
(Chambers)

CRIMINAL: Whether district court abused its discretion in denying mistrial after seven-day continuance resulted in two jurors being unavailable to finish trial; sentencing issues.

09-4547 [Briefs](#)
US v. Enerva Trotman
(Howard)

CRIMINAL: Whether delays in trying defendant violated the Speedy Trial Act or the Sixth Amendment; other issues.

09-1676 [Briefs](#)
Alan Grayson v. Charles Hsin
(Norton)

CIVIL: Whether appellees had standing to pursue claims arising from securities fraud scheme; other issues.

Thursday, September 23, 2010

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
After the en banc session

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

09-0007 [Briefs](#) CIVIL RIGHTS: Whether district court erred in dismissing complaint based on statute of limitations; other issues.
Jimmie Lawrence v. Roy Cooper
(Boyle)

09-4990 [Briefs](#) Sentencing: Whether district court provided sufficient reasons for upward departure at hearing for revocation of supervised
US v. Ervin Hughes
(Boyle)
release.

09-2262 [Briefs](#) FEDERAL JURISDICTION: Did the district court err in dismissing the case for lack of subject matter jurisdiction.
JTH Tax, Incorporated v. Harry Frashier, II
(Jackson)

Thursday, September 23, 2010

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
After the en banc session

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

09-1582 [Briefs](#) CIVIL: Whether district court erred in holding FMLA claim was barred by Eleventh Amendment and plaintiff failed to state a claim under Title VII.
Daniel Coleman v. Maryland Court of Appeals
(Legg)

09-2096 [Briefs](#) IMMIGRATION: Whether Board of Immigration Appeals abused its discretion in affirming order denying a continuance based on its assessment of Petitioners' eligibility to adjust status.
Hyeng Lee v. Eric Holder, Jr.

09-2189 [Briefs](#) FLSA: Whether district court applied correct measure of damages to determine Appellants' back pay award; other issues and cross-appeal.
John Desmond v. PNGI Charles Town Gaming,
(Bailey)

Associations: 09-2190, 09-2192, 09-2254

Thursday, September 23, 2010

PANEL V
Courtroom 5
Room 339 (Spencer)
After the en banc session

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

08-8436 [Briefs](#) HABEAS CORPUS: Whether *Watson v. United States*, 552 U.S. 74 (2007) applies retroactively to cases on collateral review.
US v. Danny Thomas
(Voorhees)

09-4417 [Briefs](#) CRIMINAL: Whether money laundering convictions are invalid under *United States v. Santos*, 128 S. Ct. 2020 (2008); whether
statute of limitations bars certain fraud counts.
US v. Ted Johnson, Jr.
(Wilson)

09-4660 [Briefs](#) CRIMINAL: Whether search warrant affidavit, purged of inaccurate information, supported probable cause; whether district court
erred in denying motion to suppress.
US v. Robert Ross
(Bailey)

Friday, September 24, 2010

PANEL I
Courtroom 1
Room 412 (Red Carpet)
8:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

09-4328	Briefs	FOURTH AMENDMENT: Whether stop and seizure of appellant occurred, giving appellant standing under <i>Brendlin v. California</i> to challenge subsequent search of vehicle in which he was a passenger.
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09-4817	Briefs	CRIMINAL: Whether Williams' sentence was plainly unreasonable based on adequacy of district court's explanation of sentence; appropriate standard of review.
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08-4889	Briefs	SENTENCING: Whether involuntary manslaughter is "crime of violence" for purposes of qualification as career offender pursuant to USSG Å§ 4B1.1 after <i>Begay v. United States</i> , 533 U.S. 137 (2008).
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07-4787	Briefs	SENTENCING GUIDELINES: Leadership role; obstruction of justice; reasonableness of sentence.

Friday, September 24, 2010

PANEL II
Courtroom 2
Room 201 (Green Carpet)
8:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

09-4276 [Briefs](#) CRIMINAL LAW: Whether limitation of grant of new trial based upon police misconduct only to certain counts was an abuse of discretion; sufficiency of evidence; other issues.
US v. Kevin Robinson
(Seymour)

09-4160 [Briefs](#) CRIMINAL: Whether the government presented sufficient evidence to sustain conviction for making a false statement in violation of 18 U.S.C. Ā§ 1001 (2006).
US v. Darrick Jackson
(Chasanow)

09-4511 [Briefs](#) FOURTH AMENDMENT: Whether reasonable suspicion supported a stop and frisk outside of a public high school.
US v. Edith Hernandez-Mendez
(Chasanow)

Friday, September 24, 2010

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
8:30 a.m.

REVD 9/21/10

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (09/21/2010 - 09/24/2010 Session)

09-2160 [Briefs](#) CIVIL RIGHTS: Whether plaintiff had a reasonable expectation of privacy regarding photographs stored on cell phone; other
Jessie Casella v. Matt Borders issues.
(Moon)

07-1947 [Briefs](#) CIVIL: Whether genuine issues of material fact existed sufficient to warrant denial of defendants' summary judgment motion on
Michael Thompson v. Brisk Transportation, LP Thompson's tort claims; other issues.
(Quarles)

09-4833 [Briefs](#) CRIMINAL LAW: Whether pretrial detention on state charges tolls federal supervised release period within the meaning of 18
US v. Dana Ide U.S.C. § 3624(e).
(Goodwin)

Friday, September 24, 2010

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
8:30 a.m.