

## WEEKLY APPELLATE UPDATE

The Fourth Circuit issued three published criminal opinions this week. Today, the Court issued its calendar for the September Term of Court. There are *lots* of criminal cases on the September calendar with a variety of interesting and important issues. The criminal cases that we are following are listed in our *Following the Fourth Circuit* section.

One of the cases for argument, *United States v. Owens*, No. 25-4469, will address the issue of whether South Carolina Assault and Battery, First Degree, still qualifies as a “crime of violence” after *United States v. Clemons*, 901 S.E.2d 280 (S.C. 2024). The outcome of this case may impact whether a prior conviction for this offense qualifies as to enhance a base offense levels under U.S.S.G. § 2K2.1 and career offender determinations. Stay tuned!

### Fourth Circuit Update



*United States v. Belmonte Cardozo*, No. 25-4239, 2026 WL 2014649,

<https://www.ca4.uscourts.gov/opinions/254239.P.pdf> (July 13, 2026): The long and short of this decision is that the Fourth Circuit joined all the other circuits which have decided this issue to hold that **manual searches of cell**

**phones at the border are routine border searches which do not require individualized suspicion.** There are circumstances where lengthy manual searches of a cellphone for an extended period of time may violate the Fourth Amendment by virtue of its “intolerable intensity and scope,” but the facts of this case did not implicate those concerns. The district court was therefore **affirmed**.

*United States v. Ball*, No. 24-4197, 2026 WL 2023811, <https://www.ca4.uscourts.gov/opinions/244197.P.pdf> (July 14, 2026): Dr. Ball prescribed a lot of oxycodone from 2005 to 2022. She was thereafter charged with 20 counts of distribution of oxycodone in deviation from the objective bounds of professional practice, as well as a conspiracy to do so. She proceeded to trial and sought a jury instruction after *Ruan* that for conviction, the government needed to prove she knew she was acting outside the “course of *her* professional practice.” The district court declined to give the instruction, finding it might confuse the jury. Even so, the district court gave an instruction regarding negligence being an insufficient basis for conviction and that good faith was a complete defense. She was convicted.

On appeal, Ball argued that the proper inquiry post-*Ruan* was whether she held the “subjective belief that within her medical practice, she was issuing a prescription with the bounds for a legitimate medical purpose.” The Fourth Circuit **rejected this argument and affirmed her convictions, finding that whether a prescription is issued for a legitimate medical purpose in the usual court of professional practice is an objective question governed by professional standards.**

*United States v. Snyder*, No. 25-4218, 2026 WL 2023813, <https://www.ca4.uscourts.gov/opinions/254218.P.pdf> (July 14, 2026): Snyder was a long-time, prominent attorney who attempted to blackmail the University of Maryland hospital into paying him \$25 million. Dollars. Personally. In 2020, he was charged with attempted extortion under the Hobbs Act and violations of the Travel Act. Snyder hired counsel, but that lawyer later withdrew. Snyder told the magistrate judge that he wanted to represent himself, so a *Faretta* hearing was conducted. The magistrate judge found Snyder voluntarily, knowingly, and intelligently waived his right to counsel. Standby counsel was appointed. During the case’s pretrial phase, Snyder’s health declined. When asked again whether he believed there were any issues with his competency or his ability to represent himself, Snyder again indicated he wanted to proceed *pro se*. At several other pretrial hearings, more issues arose regarding his physical and mental health, and another *Faretta* hearing was held. Snyder refused to change his mind, assuring the court that he was prepared to proceed.

At trial, a variety of issues presented themselves, including Snyder veering into irrelevant lines of inquiry on direct and cross-examinations, violations of pretrial orders, and his “litter[ing] the record with snide and inappropriate comments.” As a result, the district court ended up limiting Snyder’s witness examinations and closing statement. Even so, Snyder found himself in contempt of court at one point, and he spent the night in custody. The jury convicted Snyder, and he appealed, now with the aid of counsel.

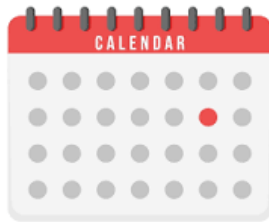
Primarily, Snyder argued that the district court had erred in letting him represent himself. Appellate counsel **conceded at oral argument that Snyder was competent to stand trial at every stage of the proceedings against him, which the Fourth Circuit found to be fatal to Snyder’s argument.** “[T]he only legal basis for requiring a district court to revoke [a defendant’s] self-representation is an inability to consult with a lawyer or a lack of rational understanding of the case against him.” Neither was present in this case. Snyder’s convictions were therefore **affirmed**. Snyder raised a variety of other claims, including a challenge to the district court’s decision declining to give a reliance-on-counsel instruction, a challenge to the district court’s ruling which limited his examination of a witness, and that the district court erred in not voir diring the jury after he spent the night

in jail during trial to determine whether any juror had seen any story about his jailing. The Fourth Circuit **rejected Snyder's arguments**.



### **Supreme Court Upcoming/Update**

The Supreme Court's summer order list is to be released July 20. If there are any relevant orders issued, we'll let you know.



### **Following the Fourth Circuit:**

On July 17, the Fourth Circuit issued its calendar for its September 2026 Term of Court. Here are some cases that we are following:

***United States v. Leticia James***, No. 25-4673; ***United States v. James Comey***, 25-4674: Whether Lindsay Halligan's appointment as U.S. Attorney was lawful; whether indictments sought and obtained by Halligan are valid.

***United States v. Garcia***, No. 25-4023: Whether district court erred in admitting expert testimony that defendant possessed firearm in furtherance of drug trafficking crime for § 924(c) conviction.

***United States v. Peters***, No. 24-6704: Whether defendant's 18 U.S.C. §§ 2, 1028A(a)(1) conviction remains sound following *Dubin v. United States*, 599 U.S. 110 (2023).

***United States v. Bixler***, No. 25-4091: Procedural and substantive reasonableness of significant upward variant sentence imposed on conviction for failure to register as sex offender.

***United States v. Ajayi***, No. 25-4523: Whether district court erred in denying motion to suppress evidence obtained pursuant to search warrant for defendant's Google accounts; other issues.

***In re: Application***, No. 26-4303: Challenge to district court's order related to application for order pursuant to 18 U.S.C. § 2703(d).

***United States v. Hess***, No. 25-4511: Whether defendant’s right to impartial jury was contravened; whether DEA criminal investigation is “pending proceedings” for purposes of 18 U.S.C. § 1505; evidentiary issues.

***United States v. St. Felix***, No. 24-4578: Whether evidence sufficient for Hobbs Act robbery conviction when victim’s cryptocurrency funds were not taken from victim’s person or physical presence; other issues.

***United States v. Vick***, No. 25-4275: Whether district court erroneously enhanced offense level under USSG § 3A1.2(c)(2).

***United States v. Owens***, No. 25-4469: Whether South Carolina first-degree assault and battery remains “crime of violence” after *United States v. Clemons*, 901 S.E.2d 280 (S.C. 2024).

***In re: US***, No. 26-1545: Whether, after *Erlinger v. United States*, 602 U.S. 821 (2024), and *Apprendi v. New Jersey*, 530 U.S. 466 (2000), the district court erred in finding that an ACCA-eligible offense is not a single aggravated crime, and permitting the defendant to plead guilty to violation of 18 U.S.C. § 922(g)(1), while ordering a jury trial on the ACCA elements of § 924(e).

***United States v. Henderson***, No. 24-4536: Whether, in appeal after remand and resentencing, government has forfeited right to invoke appeal waiver by not raising the issue during the first appeal.

***United States v. Street***, No. 25-4051: Propriety of enhancement under USSG for reckless endangerment during flight; whether alternative variant sentence is based on clearly erroneous factual findings.

***United States v. Chhippa***, No. 25-4276: Multi-issue appeal from convictions for conspiracy to provide and provision of material support to foreign terrorist organization.

***United States v. Wilder***, No. 25-4444: Whether district court erred in granting motion to suppress based on finding 911 call did not provide reasonable suspicion for stop and frisk.

***United States v. Bagayoko***, No. 25-4230: Whether traffic stop was unnecessarily prolonged; whether individual bottles of pesticide in one box constituted a “single package” under Hazardous Materials Transportation Act.

***United States v. Chafin***, No. 25-4521: Whether district court consideration of “breach of trust” during a sentencing in a revocation hearing was a retributive and prohibited purpose.

***United States v. Brooks***, No. 25-4127: Whether the government breached defendant’s plea agreement, thereby requiring resentencing; other issues.

***United States v. Ray***, No. 25-4016: Whether district court abused its discretion by removing juror for misconduct after jury deliberations had begun; other issues.

***United States v. Zacarias***, No. 25-4242: Whether prosecution under the Maritime Drug Law Enforcement Act (MDLEA) was constitutional; whether government adequately established jurisdiction; other issues.

***United States v. Wright***, No. 18-4215: Whether Wright has established that plain error under *Erlinger* affected his substantial rights.

***United States v. Nguyen***, No. 21-4620: Whether appeal waiver valid when court failed to advise defendant of right to have jury determine occasions element of ACCA.

***United States v. Sims***, No. 23-4723: Whether harmless error is proper standard of review for preserved error under *Erlinger*; other issues.

***United States v. Dixie***, No. 25-4067: Whether failure to sever resulted in unfair prejudice to defendants that could not be cured by jury instruction; sufficiency of evidence; other issues.

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