October 30, 2026

WEEKLY APPELLATE UPDATE

Things were quiet at the Supreme Court this week. There is a case for argument next week which is of some interest for those of you who have clients seeking application of FSA credits in circumstances where the BOP is perhaps not giving credits where they might be due.

The Fourth Circuit was quiet both last week and this week, issuing only one published opinion last week. This week, the Fourth Circuit held argument in several cases; the panel make-ups are noted in the *Following the Fourth Circuit* section.

Fourth Circuit Update



United States v. Chafin, No. 25-4521, 2026 WL 3119158, https://www.ca4.uscourts.gov/opinions/254521.P.pdf (Oct. 19, 2026): Chafin began his supervised release and violated his conditions numerous times within a few months. His probation officer petitioned for revocation, and the district court revoked Chafin's supervised release and imposed a within-Guidelines sentence of nine months' imprisonment followed by 21 months of additional supervised release.

Chafin argued on appeal that the district court impermissibly considered the need to sanction his breach of trust when determining his revocation sentence, in contradiction of *Esteras v. United States*, 606 U.S. 185 (2025), and that *Esteras* abrogated *United States v. Lewis*, 90 F.4th 288 (4th Cir. 2024).

The Fourth Circuit concluded that *Lewis* is still good law and affirmed the district court's sentence. The Fourth Circuit concluded that *Esteras* did not abrogate *Lewis* because their holdings and reasoning are compatible. Chafin conceded that *Esteras* explicitly left open whether § 3583(e) allows the court to consider the need to sanction a defendant's "violation of the conditions of [the] supervised release," which is what *Lewis* resolved. Therefore, their holdings do not conflict.



Supreme Court Upcoming/Update

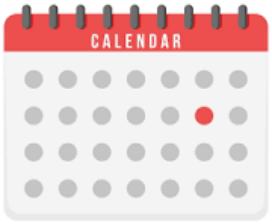
On November 2, the justices will hear argument on whether a federal inmate can use a habeas petition filed under § 2241 to challenge the BOP's refusal to accelerate his transfer to a halfway house or home confinement.

In *Maxwell v. Dinis*, No. 25-5930, Maxwell was convicted on multiple counts relating to a scheme to take over a mortgage-loan company and put its assets to personal use. He was sentenced to twenty years' imprisonment. During his imprisonment, he has maintained a clean disciplinary record and has participated in a variety of programming eligible for credit under the FSA of 2018. Maxwell sought to accelerate his transfer to a halfway house or home confinement, but his transfer was rejected. He thereafter filed a habeas petition under § 2241, arguing the BOP failed to count some of his FSA credits and that he was entitled to between 42 and 48 months of time credit that he did not receive.

The district court rejected the petition, finding he failed to exhaust his administrative remedies. The Fifth Circuit affirmed on the alternative ground that § 2241 relief is not available unless the inmate's claim would automatically entitle the inmate to accelerated *release*. According to the circuit court, since neither Maxwell's requested relief of being transferred to a halfway house or home confinement "would entitle him to accelerated release," relief under § 2241 was not available.

The Court granted cert on Maxwell's *pro se* petition and will hear argument on Monday. Notably, the government declined to defend the court of appeals' rule, and so the Supreme Court appointed an amicus to defend the Fifth Circuit's position.

A decision is expected by the end of the Term.



Following the Fourth Circuit:

On August 28, the Fourth Circuit issued its calendar for the October 2026 Term of Court. Here are some cases that we are following:

United States v. Chin, No. 25-4259: Whether district court erred in denying motion to dismiss superseding indictment for Speedy Trial Act violation; other issues. **Judge Wilkinson, Judge Harris, Senior Judge Floyd**

In the Matter of the Search of: Under Seal, No. 25-4496: Whether target of search has Fourth Amendment or common law right to view preindictment warrant; other issues. **Judge Quattlebaum, Senior Judge Keenan, District Judge Boardman**

United States v. Cantrell, No. 24-4553: Whether search warrant affidavit lacked probable cause and whether good faith exception applies; whether district court erred in denying Defendant's request for a *Franks* hearing. **Judge King, Judge Richardson, Senior Judge Floyd**

United States v. Scofield, No. 25-4646: Whether 18 U.S.C. § 922(n) is unconstitutional, both facially and as applied to defendant. **Judge King, Judge Richardson, Senior Judge Floyd**

United States v. Beauregard, No. 25-4672: Whether possession of a controlled substance, in violation of Va. Code section 18.2-250, is necessarily a Grade B violation. **Judge Niemeyer, Judge Harris, Judge Quattlebaum**

~~***United States v. White***, No. 23-4563: Whether White's written criminal judgment contains discretionary conditions of supervised release that are materially different from those pronounced at sentencing.~~ ***Removed from docket 10.20.26***

~~***United States v. Cayemitte***, No. 25-4288: Multiple sentencing challenges, including whether district court failed to give adequate weight to defendant's atypical and severe childhood trauma; applicability of categorical approach~~. ***Removed from docket 10.8.26***

United States v. Bieber, No. 25-4686: Whether admission of Google Drive evidence identified by automated system, including matching hash marks, violated Confrontation Clause; other issues**. Chief Judge Diaz, Judge Gregory, Judge Benjamin**

United States v. Lark, No. 24-4267: Whether defendant was prejudiced by trial counsel's erroneous advice that the government could not advocated for

sentencing beyond drug quantity stipulated in factual basis. **Chief Judge Diaz, Judge Gregory, Judge Benjamin**

United States v. Jones, No. 25-4084: Whether 18 U.S.C. § 3553(f)(1)(A) excludes all offenses assigned one point, including status point assigned to instant offense under USSG § 4A1.1(e). **Chief Judge Diaz, Judge Agee, Judge Harris**

United States v. Vause, No. 25-4119: Whether three consecutive sentences for three false statements in a single interview created multiplicity issue; whether *Apprendi* error was harmless. **Judge Niemeyer, Judge Benjamin, Judge Berner**

~~***United States v. Reed***, No. 25-4013: Whether sufficient evidence supported continuing criminal enterprise conviction; whether district court abused its discretion by admitting certain video evidence at trial; other issues.~~ ***Removed from docket 10.22.26***

United States v. Everette, No. 25-4453: Whether official victim enhancement at USSG § 3A1.2(c)(1) applies; whether district court adequately explained its rationale. **Judge Gregory, Judge Quattlebaum, Judge Heytens**

United States v. Rogers, No. 25-4465: Whether district court erred in denying motion to suppress when K-9 repeatedly touched car during sniff; other issues. **Judge King, Judge Rushing, District Judge Davis**

United States v. Herring, No. 24-4437: Whether, in Hobbs Act robbery prosecution, the government adduced sufficient evidence that robberies affected interstate commerce; other issues. **Judge Wilkinson, Judge Thacker, Judge Richardson**

United States v. Smith, No. 24-6528: Whether trial and appellate counsel rendered ineffective assistance of counsel by failing to challenge defendant's career offender enhancement. **Judge Wilkinson, Judge Niemeyer, Judge King**

United States v. Nunez-Couret, No. 25-4587: Whether felony violation of 18 U.S.C. § 111(a)(1) requires proof that defendant forcibly and intentionally caused physical contact with assault victim; other issues. **Judge Wilkinson, Judge Niemeyer, Judge King**

United States v. Massey, No. 25-4542: In prosecution for § 922(g)(1), was evidence sufficient for jury to find appellant knew decades-old convictions were felonies. **Judge Agee, Judge Richardson, Judge Heytens**

On October 9, the Fourth Circuit issued its calendar for the December 2026 Term of Court. Here are some cases that we are following:

United States v. Cross, No. 24-4676: In prosecution for healthcare benefit fraud, whether people whose identities were used by defendant were properly considered vulnerable victims for purpose of sentencing enhancement.

United States v. Hale, No. 25-4365: Whether defendant transmits a threat in interstate commerce, 18 U.S.C. § 875(c), when he transmits it within state, and it subsequently crosses state lines.

United States v. Chatrie, No. 22-4489: Whether search conducted by accessing cell-site location information was reasonable under the Fourth Amendment.

United States v. Fenderson, No. 25-4616: Whether denial of motion to discharge local counsel violated Sixth Amendment; whether court erred in declining to strike potential jurors for cause; other issues.

United States v. Jiang, No. 25-4382: Whether indictment for religious obstruction, 18 U.S.C. § 247(a)(2), was duplicitous; whether religious obstruction involving intent to kill is crime of violence; other issues.

United States v. Patterson, No. 21-4680: Whether Government forfeited right to invoke appeal's untimeliness by seeking dismissal only after this Court's Anders review; whether risk-notification condition violates Article III.

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

United States v. Merritt, No. 26-4064: Whether imposition of life term of supervised release violated Ex Post Facto Clause; whether district court erred in imposing location monitoring condition.

United States v. Russell, No. 25-4438: Whether 18 U.S.C. § 3504(a) requirement applies to surveillance under FISA, 50 U.S.C. §§ 1801 to 1818; other issues.

United States v. Randolph, No. 25-4325: Whether a driver's furtive movement coupled with close proximity justifies a constructive possession finding.

United States v. Goins, No. 25-4658: Whether law enforcement's use of pole cameras to surveil defendant for about five months constituted search under Fourth Amendment; other issues.

United States v. Overstreet, No. 24-4121: Whether district court erred in limiting cross-examination of detective; whether court abused its discretion in determinations regarding hearsay and present sense impression; other issues.

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