

TENTH CIRCUIT ORAL ARGUMENT CALENDAR

Thursday, October 26, 2017
Special Session, Topeka, KS

16-3298 KS United States v. Cano-Bahena

1. This defendant moved before sentencing to withdraw his plea, arguing that the negotiation process was rushed on the day of the plea, and that the plea documents were not fully translated or explained to him. Did the district court err in denying the motion?
2. Must the defendant know he is being pursued to trigger an enhancement for reckless endangerment during flight, and, if so, was the evidence here sufficient to support this enhancement?
3. Was this drug defendant's sentence—compared with the sentences of his codefendants—substantively unreasonable?

for the government: Carrie Capwell

for the defendant: Robert Calbi (Kansas City, MO)

16-3308 KS United States v. McMahan

1. Whether a Kansas aggravated-battery conviction is a violent felony for ACCA purposes?

for the government: James Brown

for the defendant: Kirk Redmond (Kansas FPD)

16-3334 KS United States v. Ross

16-3335

1. The district court varied upward in this 924(c) case to impose the guideline sentence that the district court believed would have applied to the defendant's dismissed robbery count. But the district court was wrong about what that guideline sentence would have been. Was the resulting variant sentence the result of plain procedural error?

for the government: James Brown

for the defendant: Howard Pincus (Colorado FPD)

16-3364 KS United States v. Etenyi

1. Were two of the charges in this false-documents case multiplicitous?
2. Was the evidence sufficient to sustain this 18 U.S.C. § 1253 conviction, and did the jury instructions fairly inform the jury of the charge?
3. Did the government prosecute this defendant under the wrong subsection of 18 U.S.C. § 1028, and was the evidence insufficient to prove the charge?
4. Assuming that the defendant fraudulently persuaded an unwitting driver's license officer to produce a driver's license in his name, can he be convicted of "aiding and abetting" her production of the license under 18 U.S.C. § 1028?

for the government: Brent Anderson

for the defendant: Craig Shultz (Wichita, KS)