

TENTH CIRCUIT ORAL ARGUMENT CALENDAR

Monday, November 15, 2021
Denver, CO¹
Courtroom I

9:00 A.M.

20-6134 WOK United States v. Anthony

1. Did this defendant's judgment become final only after the district court entered an amended judgment on remand, for purposes of the § 2255 statute of limitations?

for the government: Steven Creager

for the defendant: Dean Sanderford (Colorado FPD)

¹ All arguments will be held virtually via Zoom.

Wednesday, November 17, 2021
Denver, CO
Courtroom I

9:00 A.M.

20-3191 KS United States v. Portillo-Uranga

1. Did the district court err by assessing a 2-level enhancement for gun possession because the gun was not possessed close in time to the drug possession offense?
2. Did the district court err by denying the motion to suppress wiretap recordings because the “necessity” finding was not established, and because many intercepted calls originated outside the district and were placed to phones outside the district?

for the government: James Brown

for the defendant: Jonathan Laurans (Kansas City, MO)

20-4119 UT United States v. Memmott

1. Does *United States v. Haymond* have retroactive effect because it invalidated a portion of a federal statute?

for the government: Jennifer Williams

for the defendant: Nathan Phelps (Utah FPD)

20-4131 UT United States v. Frazier

1. Did the police officer in this case impermissibly extend the traffic stop without reasonable suspicion?

for the government: Elizabethanne Stevens

for the defendant: John Arceci (Colorado FPD)

21-3004 KS United States v. Mobley

1. Is this defendant’s term of supervised release procedurally or substantively unreasonable because the district court failed to consider that the defendant had overserved the statutory maximum imprisonment sentence, and failed to consider the time the defendant had already served during the COVID-19 pandemic?
2. Did the district court err by imposing conditions of supervised release that are overly burdensome?

for the government: Jason Hart

for the defendant: Katryna Spearman (Atlanta, GA)

21-3063 KS United States v. Hilleland

1. Under the Kansas sentencing guidelines, was this defendant’s Kansas burglary conviction “a crime punishable by imprisonment for a term exceeding one year” under § 922(g)(1)?

for the government: James Brown

for the defendant: Paige Nichols (Kansas FPD)

Thursday, November 18, 2021
Denver, CO
Courtroom I

8:30 A.M.

21-8004 WY United States v. Clifford

1. Did the district court err by accepting a plea to possession of a firearm in relation to a drug trafficking offense, 18 USC § 924(c), when there was no evidence of that nexus?

for the government: Jonathan Coppom

for the defendant: John Bowlin (Greenwood Village, CO)

21-8007 WY United States v. Englehart

1. Did the district court err by imposing a condition prohibiting possession of sexual materials, or a condition requiring the defendant to submit to a psychosexual evaluation?

for the government: Timothy Forwood

for the defendant: Eric Klein (Boulder, CO)

20-8060 WY United States v. Gardner

1. Did the district court err by concluding this defendant had the ability to pay a \$500 fine immediately?

for the government: Christyne Martens

for the defendant: Grant Smith (Colorado FPD)

21-6001 WOK United States v. Collins

1. Did the district court have jurisdiction to consider this defendant's § 404 First Step Act motion for a sentence reduction after his release from prison?

for the government: Steven Creager

for the defendant: Laura Deskin (Oklahoma FPD)

Thursday, November 18, 2021
Denver, CO
Courtroom II

8:30 A.M.

20-2007 NM United States v. Cordova

1. Did the district court err by denying this defendant's two motions for a new trial based on new evidence that effectively negated an element of the crime and based on the government's violations of its disclosure obligations?
2. Did the district court err by admitting an unintelligible recorded conversation and testimony about the alleged statements on it?

for the government: Tiffany Walters

for the defendant: Dain Smoland (Utah FPD)

20-2135 NM United States v. Velarde-Pavia

1. Did the district court err by denying this defendant's request for a Franks hearing regarding alleged lies in the affidavit supporting the search warrant?
2. Did the district court abuse its discretion by denying this defendant's motion to produce the confidential informant and for information about the informant?

for the government: Emil Kiehne

for the defendant: Russell Clark (Las Cruces, NM)

20-2157 NM United States v. Benally

1. Did the district court err by awarding restitution to a victim of a dismissed count, rather than the count of conviction?

for the government: Frederick Mendenhall

for the defendant: Emily Carey (New Mexico FPD)

20-2173 NM United States v. Rodriguez

1. Did the district court err when it found that this defendant's consent to an encounter with law enforcement and to the search of a bag in his possession was voluntary?

for the government: Tiffany Walters

for the defendant: Jerry Walz (Albuquerque, NM)

21-2010 NM United States v. Sanchez

1. Did the district court err by imposing an enhancement for possession of a firearm in connection with another felony offense when the facts supported mere possession of a firearm?

for the government: Emil Kiehne

for the defendant: Todd Hotchkiss (Albuquerque, NM)

Thursday, November 18, 2021
Denver, CO
Courtroom III

8:30 A.M.

20-6175 WOK United States v. Gross

1. Did the district court err when it applied enhancements for possession of a stolen firearm and possession of a gun in connection with another felony offense when the evidence did not support them?
2. Is this defendant's above-guideline statutory-maximum sentence for weapons possession by a convicted felon substantively unreasonable?

for the government: Steven Creager

for the defendant: David Autry (Oklahoma City, OK)

20-1386 CO United States v. Garcia (gov't appeal)

1. Did the district court err by dismissing the indictment for violation of this defendant's constitutional speedy trial rights, where the government waited to prosecute him until after his state prosecution was completed?

for the government: Bishop Grewell

for the defendant: Shira Kieval (Colorado FPD)

21-1153 CO United States v. Carillo

1. In addressing a motion under § 404 of the First Step Act, did the district court err when it found that the defendant had been convicted of one "covered offense" but found it lacked jurisdiction to consider arguments about a different, concurrent sentence?

for the government: Paul Farley

for the defendant: Jason Schall (Greenwood Village, CO)

20-6125 WOK United States v. Bullcoming

1. Was the search of this defendant's duffel bag, done well after booking and after the agent took the bag home, invalid?
2. Did the district court's refusal to allow this defendant access to the trailer that was the crime scene violate his Fifth or Sixth Amendment rights?

for the government: Steven Creager

for the defendant: Howard Pincus (Colorado FPD)

20-2151 NM United States v. Sauzamedia

1. Did the district court err in denying this defendant's motion to suppress because the affidavit did not establish probable cause for the wiretap, and subsequent tapping orders were tainted?

for the government: Alexander Uballez

for the defendant: Josh Lee (Colorado FPD)

20-1269 CO United States v. Diaz

1. The government's delay in bringing this defendant to court on the indictment led to the use of a much higher guideline range, and resulted in a unwarranted disparities. Is that sentence substantive unreasonable?

for the government: Elizabeth Milani

for the defendant: Howard Pincus (Colorado FPD)

Thursday, November 18, 2021
Denver, CO
Courtroom IV

8:30 A.M.

20-3232 KS United States v. Gregory

1. Should the convictions for false entries in bank records be vacated because there was insufficient evidence that the entries were false, actually constituted entries, or were made with intent to deceive the victim banks?
2. Should the convictions for bank fraud be vacated, because the evidence was insufficient to show that the defendant intentionally provided materially false documents or information to the victim banks?
3. Did the prosecutor's closing argument based on facts not in evidence warrant a new trial?

for the government: Francesco Valentini

for the defendant: Solomon Wisenberg (Washington, DC)

20-3238 KS United States v. Alexander

1. Did the district court err when it determined that a warrantless "protective" search of this defendant's vehicle did not violate the Fourth Amendment?
2. Did the district court plainly err when it determined that a Kansas reckless aggravated battery conviction qualifies as a crime of violence under USSG § 4B1.2(a)(1)?

for the government: Ryan Huschka

for the defendant: Dan Hansmeier (Kansas FPD)