ISSUES PENDING IN THE TENTH CIRCUIT

COMPILED BY THE KANSAS FEDERAL PUBLIC DEFENDER

Updated October 14, 2026

PREFACE

In the fall of 2014, we (the Kansas Federal Public Defender) contacted the Tenth Circuit Court of Appeals about compiling a list of issues pending in the Court. To accomplish our goal, we needed the Tenth Circuit's assistance, and the Court came through (we are particularly indebted to Clerk of Court Chris Wolpert). Without the Tenth Circuit's assistance, this document would not exist.

We borrowed this idea from the Federal Public Defender for the Central District of Illinois. We thank them for allowing us to follow their lead.

A few words on the contents of this document. First, when an appeal is decided, the issue summary for that case will be removed from this document (as no longer pending).

Second, we have categorized issues in what we hope is a sensible approach. This approach follows The Tenth Circuit Criminal Handbook. The categories are neither static nor exhaustive. We might add new ones, combine old ones, or make any other changes we see fit. Our goal is to make this as user-friendly as possible.

Third, the document is searchable. If you want to know if there are any *Terry* issues pending, just search for "*Terry*" or "frisk." The easiest way to search is to use the keyboard shortcut CTRL + F (this launches a "find" function).

Fourth, there are bookmarks and the Table of Contents is hyperlinked to the body of the outline.

Fifth, at the end of the document, we have included a list of recently added cases (within the last month). We think this list will be a good resource for those who wish to use this document on a regular basis.

Sixth, our summaries are generally based on a quick look at the briefs—we apologize if we bungle or omit any of your issues. If we did, please let us know.

And finally, the document is available to anyone, for whatever use it might provide. We suggest the following uses: (1) when filing a brief in the Tenth Circuit or litigating an issue in the district court, to determine whether similar issues are currently pending, and, if so, to advise the Court and to review the briefs to assist in formulating arguments; (2) to assist attorneys in preserving issues in the district court (by providing notice of issues recently raised); and (3) to become better writers (by reading others' work and attempting to improve on it in our own work).

Our goal is to update this document once a week. If we fall behind, we apologize. If you are aware of an issue that we might have missed, please send the case name and number our way.

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I. Charging Documents

A. Joinder/Severance

Did the district court err when it refused to sever sex offenses that were based on different acts, at different times, against different people? *United States v. Haight*, No. 25-5132 (oral argument September 15, 2026)

In this drug conspiracy prosecution, did the district court abuse its discretion when it refused to sever this defendant, who wanted to proceed to trial and to avoid delay caused by codefendants? *United States v. Guterrez*, No. 25-6164 (gov't brief filed May 13, 2026)

If not waived, did the district court err (or plainly err) when it denied the motion to sever as: (1) untimely and; (2) on the merits, as the codefendants' strategies were prejudicially antagonistic? *United States v. Cruz*, No. 25-6163 (reply brief filed June 10, 2026)

If not waived, did the district court err (or plainly err) by denying the defendant's unopposed pretrial motion to sever as untimely where there was a clear danger that the evidence admitted against his codefendants would result in spillover prejudice? *United States v. Hernandez Flores*, No. 26-6013 (corrected brief filed August 7, 2026)

B. Failure to State an Offense

In this sex-offense case, did the district court err when it denied the defendant's motion to dismiss the indictment as impermissibly vague, as the 3-year and 4-year offense periods charged in the indictment precluded the defendant from presenting an alibi defense and placed him at risk of double jeopardy? *United States v. Ruiz*, No. 24-2128 (oral argument August 17, 2026)

Did this indictment sufficiently allege a federal kidnapping offense under 18 USC § 1201(a)(1) when it merely alleged the use of a "motor vehicle" in interstate commerce? If not, was the error harmless? *United States v. Bachicha*, No. 25-2150 (reply filed August 11, 2026)

Were the facts alleged in the indictment—if true—sufficient to prove the existence of a "threat" or an "attempt to intimidate" under 18 U.S.C. § 844(e)? *United States v. Bernard*, No. 26-1109 (brief filed August 27, 2026)

Were the facts alleged in the indictment—if true—sufficient to prove the existence of a true threat or that the defendant threatened to harm anyone by means of fire? *United States v. Blackcloud*, No. 26-1024 (brief filed August 28, 2026)

Did the district court err in denying defendant's motion to dismiss indictment where the defendant (1) was charged with violating 18 U.S.C. § 922(o), and (2) argued that the statute violated the Second Amendment, both facially and as applied to the defendant? *United States v. Rayton*, No. 26-3042 (gov't brief filed September 29, 2026)

C. Multiplicity

When a defendant records one video that depicts two minors, is it a plain double jeopardy (or multiplicity) violation to convict the defendant of more than one count under 18 USC § 2251(a) for producing the video? *United States v. Morgan*, No. 24-3186 (OA January 23, 2026)

D. Statutes of Limitations

At this forced-labor conspiracy trial, did the district court's statute-of-limitations instructions and special interrogatories – which extended the ordinary ten-year limitations period without requiring the indictment to plead, or the jury to agree unanimously on, any defendant-specific qualifying acts, and which allowed the jury to convict on earlier conduct so long as the offenses were not proved solely by such acts – dilute the temporal limits Congress imposed on 18 USC § 1589 and 1594(a)? *United States v. Hadley*, No. 25-3144 (reply brief filed August 14, 2026)

E. Fifth Amendment Pre-Indictment Delay

Did the district court err when it held that a 4-and-a-half-year preindictment delay did not violate the Due Process Clause? *United States v. Gonzales*, No. 26-2007 (brief filed June 17, 2026)

II. Right to Counsel/Self-Representation

A. Counsel's Role

In this robbery case, did the district court violate defendant's Sixth Amendment right to autonomy over his own defense under *McCoy v. Louisiana*, 584 U.S. 414 (2018), by allowing defense counsel to override defendant's wishes and concede all but one element of the charged robberies? *United States v. Meza*, No. 26-1007 (brief filed September 14, 2026)

B. Conflicts of Interest

During these revocation proceedings, did the district court err by prohibiting defense counsel from withdrawing due to an actual conflict of interest? *United States v. Uehara*, No. 26-2000 (reply brief filed September 16, 2026)

C. Substitution of Counsel/Breakdown in Communication

Did the district court abuse its discretion by denying defendant's motion for substitute counsel without adequate inquiry? *United States v. Favors*, No. 26-5075 (brief filed September 25, 2026)

D. Ineffective Assistance of Counsel

In this first-degree-murder trial, was counsel's performance deficient when he conceded guilt of *second*-degree murder against the defendant's wishes, and was that deficient performance structural error, or, alternatively, did it prejudice the defendant, given that the jury convicted the defendant of first-degree murder anyway? At a minimum, should the district court have granted an evidentiary hearing on this claim? *United States v. Sago*, No. 25-5057 (oral argument May 14, 2026)

Did the district court err in rejecting this defendant's claim of ineffective assistance of counsel based on a failure to file a notice of appeal? *United States v. Cota-Higuera*, No. 25-2083 (gov't brief filed Feb. 25, 2026)

E. Right to Self-Representation

Did the district court err in failing to ensure that the defendant understood the nature of the charges against him, and the lesser offense included within, such that his decision to waive his right to counsel and represent himself was not knowing and intelligent? *United States v. Freeman*, No. 25-6202 (brief filed August 28, 2026)

F. Other

Did the district court violate this defendant's right to effective assistance of counsel when it limited the defendant's opening statement to five minutes? *United States v. Harrison*, No. 26-6017 (reply brief filed September 9, 2026)

III. Challenges to the Prosecution/Double Jeopardy

Does it violate double jeopardy to impose multiple punishments for two counts of conviction for abusive sexual contact of a minor under 18 U.S.C. § 2244(a)(3) based on a single course of conduct involving the touching of two body parts (here, breasts then vagina) in immediate succession? *United States v. Aguilar*, No. 24-2146 (OA November 17, 2025)

When a defendant records one video that depicts two minors, is it a plain double jeopardy (or multiplicity) violation to convict the defendant of more than one count under 18 USC § 2251(a) for producing the video? *United States v. Morgan*, No. 24-3186 (OA January 23, 2026)

Must this Court vacate the conviction under 18 USC § 924(j) because of the Supreme Court's recent decision in *Barrett v. United States*? *United States v. Seminole* No. 24-8080 (oral argument March 17, 2026)

If the defendant's non-Indian status was an affirmative defense on which the defendant bore the initial burden of production (rather than an element that the indictment was required to allege and on which the government bore the initial burden of production), does the double-jeopardy clause prevent the government from retrying the defendant? *United States v. Ruiz*, No. 24-2128 (oral argument August 17, 2026)

If the defendant's non-Indian status was an affirmative defense on which the defendant bore the initial burden of production (rather than an element that the indictment was required to allege and on which the government bore the initial burden of production), does the double-jeopardy clause prevent the government from retrying the defendant? *United States v. Hebert*, No. 24-7030 (oral argument August 17, 2026)

Did the district court commit legal error by dismissing the 18 USC § 924(j) count and sentencing this defendant for the lesser offense under 18 USC § 924(c)? *United States v. Forrester*, No. 25-7092 (reply brief filed October 13, 2026)

IV. Discovery

A. Federal Rule of Criminal Procedure 16 and the Due Process Clause

Did the district court violate the defendant's rights under Rule 16 and/or the Due Process Clause by refusing to compel the production of (1) the original wiretap data from the defendant's cellphone, and (2) information about the DEA employee who monitored the wiretap? *United States v. Bates*, No. 25-4018 (brief filed August 21, 2026)

V. Speedy Trial

A. Constitutional Speedy Trial Right

Assuming good cause to consider the claim, did the 4-and-a-half-year delay between indictment and trial violate this defendant's constitutional Speedy Trial right? *United States v. Isong*, No. 24-4108 (reply brief filed May 25, 2025)

Did the government violate this defendant's constitutional speedy trial rights when it exploited its failure to arrest a codefendant until the trial's eve and then proffered this "inability" to find the codefendant as the reason to postpone the trial, such that the defendant spent nearly five years in pretrial incarceration? *United States v. Adegboruwa*, No. 24-4116 (gov't brief filed August 26, 2026)

B. Statutory Speedy Trial Right

Did the district court erred when it granted ends-of-justice continuances, 18 USC § 3161(h)(7), related to superseding indictments and codefendant preparation without properly considering the prejudice to this defendant? *United States v. Gutierrez*, No. 25-6164 (gov't brief filed May 13, 2026)

Did the government violate this defendant's statutory speedy trial rights, 18 USC § 3161(h)(7)(C), when it exploited its failure to arrest a codefendant until the trial's eve and then proffered this "inability" to find the codefendant as the reason to postpone the trial, such that the defendant spent nearly five years in pretrial incarceration (because the district court refused to sever the trials)? *United States v. Adegboruwa*, No. 24-4116 (gov't brief filed August 26, 2026)

VI. Fourth Amendment Issues

A. Standing

1. Vehicles

Did the defendant-driver have standing to challenge the search of the vehicle because he reasonably believed that he had borrowed the vehicle from someone with authority to grant him possession? *United States v. Pappas*, No. 25-1385 (reply brief filed August 17, 2026)

B. Collective Knowledge

Did the district court improperly consider whether FBI officers had reasonable suspicion to detain this defendant, when this defendant was not detained by FBI officers and the FBI officers did not communicate any knowledge to the detaining officers? *United States v. Preece*, No. 26-1038 (gov't brief filed September 28, 2026)

C. Consent

Did officers reasonably rely on a co-tenant's consent to search the defendant's home after they unlawfully arrested and removed the defendant where, prior to the defendant's removal, he attempted to prevent the officers from entering the home? *United States v. Lee*, No. 26-3011 (brief filed July 9, 2026)

D. Exigent Circumstances

1. Cell Phones

Did the district court err in ruling that exigent circumstances justified the warrantless seizure of the defendant's phone where the defendant lacked physical access to the phone at the time of the seizure? *United States v. Miller*, No. 26-1149 (brief filed September 18, 2026)

E. Warrantless Arrests

Did officers violate the Fourth Amendment by arresting the defendant without a warrant based on a misdemeanor that occurred outside the arresting officers' presence? *United States v. Warren*, No. 26-5046 (brief filed August 13, 2026)

Did officers arrest this defendant without probable cause when they grabbed him, yanked him off the steps, pushed him up against a fence, and handcuffed him? *United States v. Ballage*, No. 25-1438 (reply brief filed August 24, 2026)

Did officers have probable cause to arrest this defendant for aiding prostitution, disorderly conduct, or interfering with an arresting officer? *United States v. Johnson*, No. 25-4152 (reply brief filed July 14, 2026)

1. Warrantless Arrests in Homes

Did officers violate the Fourth Amendment when they ordered and/or tricked the defendant to come to the door of his home in order to arrest him without a warrant? *United States v. Lee*, No. 26-3011 (brief filed July 9, 2026)

F. Warrantless Seizures (Persons)

1. Encounters at Homes

Did five police officers seize this defendant in a small room in an apartment building after physically blocking the room's only exit? If so, did officers have reasonable suspicion to do so based on a bare-bones, uncorroborated civilian tip that this defendant was "wanted by the FBI"? *United States v. Preece*, No. 26-1038 (gov't brief filed September 28, 2026)

2. Car Stops

a) Reasons to Stop

Assuming the search warrant was invalid, did the officers have reasonable suspicion to stop this defendant based on probable cause of drug trafficking or because smoke was coming from the car? *United States v. Schear*, No. 25-8043 (reply brief filed April 23, 2026)

Did officers have probable cause to stop this defendant for following too closely under New Mexico law? In making this determination, did the district court improperly defer to the officer's testimony rather than make its own findings based on the evidence presented? Even if there was probable cause, is the stop unconstitutional because the officer conducted the stop to investigate drug trafficking, not to enforce the traffic code? *United States v. Zermeno*, No. 26-2087 (reply brief filed October 13, 2026)

b) Duration of Stop

Assuming the search warrant was invalid, did officers unreasonably prolong this traffic stop by following the defendant (at his request) into town so that the smoking car could be looked at and after a drug dog alerted on the vehicle? *United States v. Schear*, No. 25-8043 (reply brief filed April 23, 2026)

Did the police illegally prolong the duration of this traffic stop by conducting an unrelated inquiry after all traffic-related tasks were complete and before allowing this defendant to proceed on his way? *United States v. Mejia-Quiroz*, No. 25-1320 (reply brief filed September 3, 2026)

Did officers unlawfully extend this car stop when, without reasonable suspicion, they ran a records check on the passengers' criminal histories? *United States v. Vaughn*, No. 26-1023 (reply brief filed October 9, 2026)

Whether police had reasonable suspicion that this defendant was engaged in criminal activity to justify extending the traffic stop for a criminal investigation where, at most, officers knew that the camper had made a quick cross-country trip and the defendant had made statements about his work and use of the camper that were arguably inconsistent with that trip? *United States v. Valadez*, No. 26-1050 (brief filed June 26, 2026)

Did officers unreasonably prolong a car stop in order to investigate an Uber passenger for suspected trafficking where (1) before the stop, the Oklahoma Bureau of Narcotics alerted the officers that the passenger "would potentially be in possession of illegal narcotics," (2) the passenger initially refused to provide the officers with his ID, and (3) the passenger appeared to be under the influence? *United States v. Davis*, No. 26-6005 (reply brief filed October 9, 2026)

G. Warrantless Seizures (Places/Effects)

1. Homes

If not waived, did officers unlawfully enter, then seize, the defendant's hotel room to obtain a warrant? *United States v. Johnson*, No. 25-4152 (reply brief filed July 14, 2026)

2. Impoundments

Assuming standing exists, was the impoundment of the defendant's vehicle an improper pretext to search for evidence of a crime? *United States v. Pappas*, No. 25-1385 (reply brief filed August 17, 2026)

H. Search Warrants

1. Non-Constitutional Requirements

a) Title III Wiretaps

Did the district court err in (1) refusing to hold a hearing to resolve the defendant's *Franks* challenge to the finding of necessity that undergirded the tapping of his cellphone under 18 U.S.C. § 2518, and (2) denying the defendant's motion to suppress the fruits of the wiretap authorization? *United States v. Bates*, No. 25-4018 (brief filed August 21, 2026)

b) State Judges

In this CSAM case, did the computer and cellphone search warrants violate Federal Rule of Criminal Procedure 41(b)(1) where (1) a Federal Task Force Officer (TFO) asked a state judge—rather than a federal judge—for the warrants; (2) before doing so, the TFO contacted a federal prosecutor about the case and began drafting a probable-cause affidavit for a federal complaint; (3) the state judge ultimately issued the warrants; (4) another Federal TFO executed the warrants; (5) the searches almost immediately resulted in federal charges; and (6) the government didn't dispute that a federal judge would have been reasonably available to review the warrant applications? *United States v. Langhover*, No. 26-3028 (brief filed August 17, 2026)

2. Particularity

Did the district court err in ruling that the supporting affidavit in this CSAM case cured the resulting search warrant's failure to satisfy the particularity requirement where (1) the warrant didn't clearly incorporate the affidavit; (2) the affidavit wasn't physically connected to the warrant when it was

issued; (3) the affidavit wasn't physically connected to the warrant when it was executed; and (4) the affidavit contradicted, rather than clarified, the warrant's language? *United States v. Langhover*, No. 26-3028 (brief filed August 17, 2026)

3. Probable Cause

a) False Statements/Omissions (*Franks*)

Did the search warrant contain intentional or reckless misstatements and/or material omissions? If so, did this information negate probable cause? *United States v. Knox*, No. 25-6011 (oral argument March 19, 2026)

Did the district court err in denying defendant's motion for a *Franks* hearing by, e.g., failing to address the omissions identified by the defendant? *United States v. Boyce*, No. 26-2033 (brief filed September 10, 2026)

b) Nexus

Did the search warrant's supporting affidavit – which relied solely on an arrestee's allegation that he brought drugs found in his car from the defendant on her property, without information establishing the informant's credibility, without corroboration, and without any specific allegation that evidence of drug activity would be found at the property – establish probable cause to search the property? *United States v. Radick*, No. 25-7050 (oral argument September 15, 2026)

In this drug-distribution case, did the search warrants' supporting affidavits fail to establish the requisite nexus where (1) the apartment to be searched was the residence of defendant's girlfriend (rather than defendant himself), and (2) there was no specific evidence indicating that this particular defendant used this particular cellphone to facilitate distribution? *United States v. Meek*, No. 26-1100 (brief filed September 28, 2026)

c) Other

Did this search warrant for a USPS package lack probable cause? *United States v. Findley*, No. 25-8019 (oral argument September 17, 2026)

Did the search warrant for the vehicle lack probable cause because the confidential informant was unreliable, the facts in the affidavit had innocent explanations, and the agent misled the judge in the affidavit? *United States v. Schear*, No. 25-8043 (reply brief filed April 23, 2026)

Did the search warrant for the hotel room lack probable cause? *United States v. Johnson*, No. 25-4152 (reply brief filed July 14, 2026)

Was there probable cause for search warrants to issue where (1) the supporting affidavits merely stated that officers had "obtained knowledge" that defendant was engaged in drug distribution, without identifying the source of this "knowledge"; (2) the apartment to be searched was the residence of the defendant's girlfriend (rather than the defendant); and (3) the affidavits contained intentional or reckless material misstatements and omissions? *United States v. Meek*, No. 26-1100 (brief filed September 28, 2026)

4. Manner/Scope of Search

Did officers exceed the scope of a warrant to search this defendant's person when officers continued to detain the defendant after they paused their search indefinitely and without any other

justification to detain the defendant? *United States v. Chambers*, No. 25-1427 (reply brief filed October 2, 2026)

I. Warrantless Searches

1. *Terry* Frisks

Did officers have reasonable suspicion to frisk this passenger during a traffic stop? *United States v. Beasley*, No. 25-1282 (oral argument September 16, 2026)

Did officers have reasonable suspicion to frisk this defendant (who was suspected of hitting a child with a water bottle)? If so, did the frisk nonetheless exceed the permissible scope of the search when officers opened and reached into the defendant's jacket pocket without first conducting a pat-down of the outer clothing? Regardless, was the gun found in the left pocket a fruit of the search of the right pocket, or would it have been inevitably discovered? *United States v. Ballage*, No. 25-1438 (reply brief filed August 24, 2026)

If not waived, did officers have reasonable suspicion to frisk (and handcuff) this driver during an investigatory car stop? *United States v. Pappas*, No. 25-1385 (reply brief filed August 17, 2026)

Did officers have reasonable suspicion to frisk this driver/defendant when they based the frisk on information that a passenger might be armed and dangerous? *United States v. Vaughn*, No. 26-1023 (reply brief filed October 9, 2026)

2. Vehicle-Specific Warrantless Searches

a) Automobile Exception

Assuming the search warrant was invalid, did officers have probable cause to search this vehicle for drugs based on an uncorroborated tip from an unreliable informant? *United States v. Schear*, No. 25-8043 (reply brief filed April 23, 2026)

3. Parolees/Probationers

Did officers need reasonable suspicion to search this defendant's bedroom while the defendant was on post-release supervision in Kansas? If so, was there reasonable suspicion to conduct a warrantless search of this defendant's bedroom? *United States v. Vano*, No. 25-3128 (oral argument September 16, 2026)

J. Exclusionary Rule

1. General Principles

Assuming that the officer unlawfully frisked the defendant's right pocket, was the gun found in the left pocket a fruit of this unconstitutional search? *United States v. Ballage*, No. 25-1438 (reply brief filed August 24, 2026)

2. Good Faith Exception

If the search warrant contained intentional or reckless misstatements and/or material omissions that negated probable cause, does the good-faith exception save the fruits of any unconstitutional search? *United States v. Knox*, No. 25-6011 (oral argument March 19, 2026)

If probable cause did not exist to search the property, does the good-faith exception save the fruits from suppression? *United States v. Radick*, No. 25-7050 (oral argument September 15, 2026)

If there was not reasonable suspicion to conduct a warrantless search of this supervisee's bedroom, does the good-faith exception save the fruits from suppression? *United States v. Vano*, No. 25-3128 (oral argument September 16, 2026)

If the search warrant for the USPS package lacked probable cause, does the good-faith exception save the fruits from suppression? *United States v. Findley*, No. 25-8019 (oral argument September 17, 2026)

If probable cause did not exist to search the defendant's vehicle, did officers rely in good faith on a search warrant that was never "served"? *United States v. Schear*, No. 25-8043 (reply brief filed April 23, 2026)

Did the district court err by applying the good-faith exception after determining that the affidavit for search warrant failed to establish a substantial nexus between the suspected offense and the place to be searched? *United States v. Boyce*, No. 26-2033 (brief filed September 10, 2026)

3. Independent Source

Did the district court err when it refused to suppress items found during an unlawful protective sweep of this defendant's hotel room under the independent source and/or inevitable discovery exception to the exclusionary rule? *United States v. Johnson*, No. 25-4152 (reply brief filed July 14, 2026)

4. Inevitable Discovery

Assuming that the officer unlawfully frisked the defendant's right pocket, must the gun found in the left pocket be suppressed, or would it have been inevitably discovered during a lawful frisk? *United States v. Ballage*, No. 25-1438 (reply brief filed August 24, 2026)

Did the district court err when it refused to suppress items found during an unlawful protective sweep of this defendant's hotel room under the independent source and/or inevitable discovery exception to the exclusionary rule? *United States v. Johnson*, No. 25-4152 (reply brief filed July 14, 2026)

If officers exceeded the scope of a warrant to search the defendant's person, does the inevitable discovery doctrine nonetheless apply to save the fruits found on a cell phone in the defendant's home from suppression, as the residential search warrant lacked particularity (and, thus, was not an alternative lawful means of finding the evidence), where the defendant did not raise this particularity argument below? *United States v. Chambers*, No. 25-1427 (reply brief filed October 2, 2026)

Did the district court err in concluding that officers would have inevitably discovered the firearm in defendant's backpack pursuant to a lawful inventory search where, prior to discovering the firearm, officers repeatedly told the defendant that he wasn't necessarily going to jail and that he could still walk away with just a citation? *United States v. Warren*, No. 26-5046 (brief filed August 13, 2026)

5. Attenuation

If officers did not have reasonable suspicion to frisk this passenger during a traffic stop, did the defendant's flight attenuate any causal connection to preclude suppression as a remedy? *United States v. Beasley*, No. 25-1282 (oral argument September 16, 2026)

VII. Confessions/Statements

A. Coerced Confessions/Involuntary Statements

1. Other Threats

In this CSAM case, did the district court err in refusing to suppress the defendant's statements to his probation officer (and the derivative fruits of those statements) where (1) the defendant's statements were made in response to questions posed to him by his supervising officer, and (2) a condition of the defendant's supervised release required him to answer such questions? *United States v. Pinkerton*, No. 26-3047 (brief filed August 14, 2026)

B. Eliciting/Obtaining Information from Counseled Defendants

Did the government violate the Sixth Amendment when a jailhouse informant elicited statements from this counseled defendant and relayed them to the government? *United States v. Withrow*, No. 24-5040 (oral argument September 15, 2026)

C. Nontestimonial Conduct

In this CSAM case, did the district court err in refusing to suppress the contents of the defendant's cell phone under the Fifth Amendment where (1) the defendant produced the phone and its passcode in response to a direct order from his supervising officer and (2) his conditions of supervised release required him to comply with that order? *United States v. Pinkerton*, No. 26-3047 (brief filed August 14, 2026)

VIII. Constitutional Challenges to Statutes

A. Void for Vagueness Doctrine

Did this prosecution under the Torture Act, 18 U.S.C. §§ 2340–2340A, violate the Fifth Amendment's Due Process Clause because the Act failed to put the defendant (a foreign national) on notice that he could be prosecuted in the United States for conduct that took place wholly outside the United States? *United States v. Correa*, No. 25-1327 (brief filed July 28, 2026)

B. Commerce Clause Et Al.

Is the federally protected activities statute, 18 USC § 245(b)(1)(A), as applied in this case involving four shootings against state and local public officials in alleged retaliations for purely state and local actions, an unconstitutional exercise of Congress's commerce clause, federal elections, and civil rights authority? *United States v. Pena*, No. 25-2090 (oral argument September 17, 2026)

Is the Torture Act, 18 U.S.C. §§ 2340–2340A, as applied in this case involving extraterritorial conduct, an unconstitutional exercise of Congress's treaty power under the Necessary and Proper Clause? *United States v. Correa*, No. 25-1327 (brief filed July 28, 2026)

C. First Amendment

In this attempt-to-intimidate case, did the district court err in denying defendant's motion to dismiss the indictment, in which defendant raised an as-applied First Amendment challenge to 18 U.S.C. § 844(e)? *United States v. Bernard*, No. 26-1109 (brief filed August 27, 2026)

D. Second Amendment

Is **18 USC § 922(g)(1)** unconstitutional—either facially or as applied to this defendant? *United States v. Smith*, No. 24-5106 (government appeal) (OA September 11, 2025); *United States v. Forbis*, No. 24-5097 (government appeal) (OA September 11, 2025); *United States v. Knox*, No. 25-6011 (oral

argument March 19, 2026); *United States v. Lollis*, No. 25-7055 (as-applied; non-violent felony) (oral argument May 14, 2026); *United States v. Vano*, No. 25-3128 (oral argument September 16, 2026) (facial); *United States v. Clark*, No. 25-5141 (submitted on the briefs September 17, 2026) (facial challenge); *United States v. Beasley*, No. 25-1282 (oral argument September 16, 2026); *United States v. Ballage*, No. 25-1438 (reply brief filed August 24, 2026); *United States v. Bray*, No. 25-7091 (reply brief filed July 24, 2026) (as applied); *United States v. Salazar*, No. 25-1298 (gov't brief filed July 31, 2026); *United States v. Watkins*, No. 25-1471 (gov't brief filed October 6, 2026); *United States v. Riddle*, No. 26-1084 (brief filed August 5, 2026)

Is **18 U.S.C. § 922(g)(3)** – which prohibits an unlawful drug user from possessing a gun – facially or as-applied unconstitutional? *United States v. Lewis*, No. 24-6148 (OA November 19, 2025) (same) (supp. *Hemani* brief filed August 3, 2026); *United States v. Kelley*, No. 23-6194 (oral argument March 19, 2026) (facial challenge only); *United States v. Martinez*, No. 23-6140 (government appeal) (brief filed Nov. 13, 2025) (as-applied challenge to marijuana users)

Does the defendant's straw-purchaser convictions under **18 USC § 922(a)(6)** and **18 USC § 371** (conspiracy) violate the Second Amendment? *United States v. Jaghoori*, No. 25-3192 (gov't brief filed June 4, 2026) (reply brief filed July 9, 2026)

Is **18 U.S.C. § 922(o)** unconstitutional—either facially or as applied to this defendant? *United States v. Rayton*, No. 26-3042 (gov't brief filed September 29, 2026)

IX. Pleas

A. Rule 11(c)(1)(C) Agreements

If not waived, did the district court abuse its discretion when it rejected the parties' Rule 11(c)(1)(C) plea agreement without considering the government's reasons for the plea agreement? If so, was this error harmless? *United States v. Hallford*, No. 25-1257 (reply brief filed June 15, 2026)

B. Appeal Waivers

Is it a miscarriage of justice to enforce an appellate waiver against a claim of factual innocence of a § 924(c) conviction? *United States v. Sandoval*, No. 23-4019 (OA September 10, 2025)

Did the defendant waive his guidelines challenges via the appeal waiver within the plea agreement? *United States v. Kendrick*, No. 25-7042 (oral argument April 29, 2026)

Did the government waive the appeal waiver because it failed to file a motion to enforce the waiver? *United States v. Gutierrez*, No. 25-4104 (oral argument May 14, 2026)

Did the defendant waive his plea-rejection challenge via the appeal waiver within the plea agreement? *United States v. Hallford*, No. 25-1257 (reply brief filed June 15, 2026)

C. Validity of Plea

Is the defendant's plea to drug offenses plainly invalid because: (1) the district court did not inform the defendant of the essential elements of three of the offenses, as is required by Rule 11(b)(1)(G); or (2) establish an adequate factual basis for these offenses, as is required under Rule 11(b)(3)? *United States v. Huerta-Torres*, No. 24-5125 (OA September 11, 2025)

Did the district court err (plainly or otherwise) by accepting this defendant's guilty plea to § 922(g)(3) (prohibiting an unlawful user from possessing a gun), because (1) the plea plainly lacked a factual basis; or (2) the statute is unconstitutional under the Second Amendment, either facially or as-applied? *United States v. Lewis*, No. 24-6148 (OA November 19, 2025) (supp. *Hemani* brief filed August 26, 2026)

D. Withdrawing a Guilty Plea

Did the district court abuse its discretion when it denied this defendant's motion to withdraw his guilty plea four days after he entered the plea? *United States v. Johnson*, No. 25-4152 (reply brief filed July 14, 2026)

X. Trial Rights/Protections

A. Right to Present a Defense

Did the district court deny this defendant the right to present a defense when it refused to admit evidence of an alternative perpetrator? *United States v. Withrow*, No. 24-5040 (oral argument September 15, 2026)

At this illegal-reentry (8 USC § 1326) prosecution, the district court refused to permit the defendant to present a defense that he did not know his status as an alien based on Tenth Circuit precedent. Does intervening Supreme Court precedent require revisiting the appropriate mens rea for § 1326 and recognizing that the offense also requires proof that the defendant knew his status as an alien? If so, was the error harmless? *United States v. Barraza-Ramirez*, No. 25-2147 (reply brief filed July 16, 2026)

In this gun case, did the district court deprive Milstead of his right to present a defense when it refused to instruct the jury on his duress defense? *United States v. Milstead*, No. 25-3199 (reply brief filed August 12, 2026)

In this murder case, did the district court violate the defendant's right to present a defense by excluding evidence of a cooperating witness's bias—specifically, that by cooperating with the government, the witness was avoiding a potential life sentence? *United States v. Lambert*, No. 26-7025 (brief filed September 14, 2026)

B. Right to Testify/Remain Silent

Did the district court plainly violate *Doyle v. Ohio* when it allowed the government to cross-examine this testifying defendant about his *Miranda*-warned post-arrest partial silence? *United States v. Estrada*, No. 25-8003 (oral argument March 17, 2026)

Did the district court plainly err by permitting the government to elicit witness testimony commenting on the defendant's silence as to his status as an Indian or non-Indian? *United States v. Hebert*, No. 24-7030 (oral argument August 17, 2026)

If not waived, did the district court's noncompliance with the Court Interpreters Act deny this defendant his constitutional right to testify (also due process, present a defense, and fair trial)? *United States v. Adegboruwa*, No. 24-4116 (gov't brief filed August 26, 2026)

Whether the prosecution plainly violated this defendant's due process rights under Doyle v. Ohio by impeaching him with his post-*Miranda*-warning silence? If so, is the error harmless? *United States v. Luster*, No. 25-5145 (reply brief filed August 13, 2026)

Did the prosecutor plainly violate *Doyle v. Ohio* by introducing evidence of this defendant's post-arrest, post-Miranda silence at trial to prove that he committed the charged murder? *United States v. Forrester*, No. 25-7092 (reply brief filed October 13, 2026)

At this murder trial, did the district court repeatedly err in allowing the government to use this defendant's invocation of his right to remain silent as substantive evidence of guilt? *United States v. Gonzales*, No. 26-2007 (brief filed June 17, 2026)

C. Right to Confront Witnesses

Did the admission of a testifying witness's grand-jury testimony violate the Sixth Amendment's Confrontation Clause? If so, was the error harmless? *United States v. Withrow*, No. 24-5040 (oral argument September 15, 2026)

Did the district court violate this defendant's confrontation rights when it allowed a government expert witness on cell site location data to adopt and incorporate into his testimony actions and decisions made by a previous expert who was unable to testify at trial? If so, was the error harmless? *United States v. Pena*, No. 25-2090 (oral argument September 17, 2026)

Did the district court violate the Sixth Amendment when it refused to permit the defendant to recall the government's lead case agent during the defendant's case-in-chief? *United States v. Gutierrez*, No. 25-6164 (gov't brief filed May 13, 2026)

If not waived, t this child-sex trial, did the district court violate this defendant's right to confront witnesses and the right to a fair trial by sustaining numerous government objections during cross-examination of the witness? *United States v. Qualls*, No. 26-7012 (gov't brief filed October 5, 2026)

In this murder case, did the district court violate the defendant's right to confront witnesses and right to a fair trial by preluding him from cross-examining a cooperating witness about the fact that, by cooperating with the government, the witness was avoiding a potential life sentence? *United States v. Lambert*, No. 26-7025 (brief filed September 14, 2026)

D. Constructive Amendment

In this assault case, did the district court constructively amend the indictment when it removed the specific intent requirement from the jury instruction? *United States v. Regnier*, No. 25-8062 (oral argument May 14, 2026)

At this forced-labor conspiracy trial, did the district court's statute-of-limitations instructions and special interrogatories – which extended the ordinary ten-year limitations period without requiring the indictment to plead, or the jury to agree unanimously on, any defendant-specific qualifying acts, and which allowed the jury to convict on earlier conduct so long as the offenses were not proved solely by such acts – constructively amend the indictment? *United States v. Hadley*, No. 25-3144 (reply brief filed August 14, 2026)

At this wire fraud trial, did the government constructively amend the indictment (and violate the defendant's fair trial rights) by relying on evidence of fraud against a victim different from the

alleged victim in the indictment? *United States v. Vergato*, No. 25-1362 (reply brief filed September 30, 2026)

In this drug case, was the indictment constructively amended when the district court admitted evidence of prior uncharged drug sales and the prosecutor urged the jury to convict on those prior, uncharged sales? *United States v. Watkins*, No. 25-1471 (gov't brief filed October 6, 2026)

E. Prosecutorial Misconduct

1. False Evidence/Perjured Testimony

At this child sex abuse trial, did the district court apply the wrong standard under *Glossip* when it required the defendant to prove that the detective committed perjury before granting a motion for new trial? And was the district court's finding that the government did not allow the testimony to go uncorrected factually untrue and clearly erroneous? *United States v. Smith*, No. 26-5020 (gov't brief filed August 5, 2026)

2. Improper Comments/Questioning

Did the prosecutor commit plain misconduct during closing argument when the prosecutor misstated the law regarding the specific-intent element for attempted murder? *United States v. Collins*, No. 25-7017 (oral argument May 12, 2026)

Did the prosecutor commit plain misconduct during closing argument by making two improper and prejudicial misstatements of the law with respect to the government's burden of proof? *United States v. Lee*, No. 25-7084 (oral argument September 15, 2026)

Under plain error review, did the government's repeated and persistent vouching for and bolstering of the key government witness deprive this defendant of a fair trial? *United States v. Gonzalez*, No. 25-3163 (oral argument September 16, 2026)

If not waived, did the prosecutor commit misconduct by eliciting improper testimony from its witnesses and improperly opining on the evidence and the defendant's credibility in its rebuttal closing argument? *United States v. Salazar*, No. 25-1298 (gov't brief filed July 31, 2026)

In this child sex abuse case, did prosecutor plainly commit misconduct by (1) improperly vouching for the victim by asking her father a loaded question that assumed the alleged sexual abuse occurred; and/or (2) repeatedly inviting the jurors, during closing argument, to convict based on emotion, sympathy, and a perceived duty to secure justice? *United States v. Toyne*, No. 26-7016 (reply brief filed September 2, 2026)

If not waived, did the prosecutor in rebuttal closing argument improperly urge the jury to consider evidence that had been admitted in violation of *Doyle v. Ohio*? *United States v. Forrester*, No. 25-7092 (reply brief filed October 13, 2026)

Did the prosecutor plainly misstate the law regarding premeditation during closing argument? *United States v. Forrester*, No. 25-7092 (reply brief filed October 13, 2026)

At this sex-assault-of-minors trial, did the prosecutor's statements throughout trial and during closing arguments plainly prejudice this defendant's right to a fair trial? *United States v. Osborn*, No. 26-7009 (gov't brief filed September 25, 2026)

At this child-sex trial, did the prosecutor improperly bolster and vouch for the credibility of the two minor witnesses? *United States v. Zamarripa*, No. 25-2161 (reply brief filed October 2, 2026)

At this child-sex trial, did prosecutors commit plain prosecutorial misconduct when questioning witnesses and during closing arguments? *United States v. Qualls*, No. 26-7012 (gov't brief filed October 5, 2026)

F. Motions for Mistrial

Did the district court abuse its discretion when it denied a mistrial after an audience member interrupted a witness examination to inject a purported clarification of the witness's testimony? *United States v. Seminole* No. 24-8080 (oral argument March 17, 2026)

Did the district court abuse its discretion in denying the defendant's motion for mistrial where (1) immediately after a witness testified on behalf of the defendant, multiple jurors saw officers arrest that same witness outside the courthouse; (2) one of those jurors told the remaining jurors about the witness's arrest; (3) the district court asked each juror whether the incident would affect their impartiality, but did so (A) in front of all the others jurors, and (B) immediately after telling the jurors that they must not let the incident affect their impartiality; and (4) the district court failed to treat the jurors' exposure to the witness's out-of-court arrest as presumptively prejudicial for purposes of ruling on the defendant's motion for mistrial? *United States v. Alexander*, No. 26-5018 (brief filed August 14, 2026)

G. Motions for New Trial

Did the district court abuse its discretion in finding this defendant's motion for new trial untimely without applying the correct excusable-neglect framework? If so, did the district court also abuse its discretion in denying the motion on the merits when it deemed immaterial newly discovered evidence that a key eyewitness to the killing underlying the defendant's second-degree-murder conviction had lied both to the FBI and during her trial testimony? *United States v. Lansing*, No. 25-4006 (OA January 23, 2026)

Did the district court err when it denied a new trial motion based on a critical witness's recantation of her testimony undermining the defendant's alibi defense based on the discovery of photos on a computer that supported the defendant's alibi defense? *United States v. Padilla*, No. 25-2164 (brief filed June 26, 2026)

At this child-sex trial, did the district court err when it denied a new trial based on the introduction of spillover evidence from a dismissed child-pornography count? *United States v. Zamarripa*, No. 25-2161 (reply brief filed October 2, 2026)

In this deprivation-of-civil-rights case, did the district court err in denying the defendant's motion for new trial based on the government's belated disclosure of *Brady/Giglio* material? *United States v. Miller*, No. 26-1149 (brief filed September 18, 2026)

H. Sufficiency Challenges

Was the defendant's non-Indian status an element of the offense on which the government bore the initial burden of production and the ultimate burden of persuasion (rather than an affirmative defense on which the defendant bore at least the initial burden of production) for purposes of **18**

U.S.C. § 1152? If so, was evidence that the defendant was born in Mexico sufficient to prove the defendant's non-Indian status? *United States v. Ruiz*, No. 24-2128 (oral argument August 17, 2026)

Was the defendant's non-Indian status an element of the offense on which the government bore the initial burden of production and the ultimate burden of persuasion (rather than an affirmative defense on which the defendant bore at least the initial burden of production) for purposes of **18 U.S.C. § 1152**? If so, was the evidence sufficient to prove that this defendant was a non-Indian for purposes of **18 U.S.C. § 1152**? *United States v. Hebert*, No. 24-7030 (oral argument August 17, 2026)

Was the evidence sufficient to convict this defendant of interference with federally protected activities, **18 USC § 245(b)(1)(A)**, when he allegedly orchestrated four shootings on the houses of state and local elected officials when those shootings occurred after the local election was complete and the results were certified? *United States v. Pena*, No. 25-2090 (oral argument September 17, 2026)

In this false-flag case, was the evidence sufficient to convict the defendant under **18 U.S.C. § 844** for communicating a true threat via interstate commerce (or for communicating false information about a threat concerning an attempt to harm someone by means of fire) where (1) no reasonable recipient of the defendant's email would understand it to be making a threat; and (2) the defendant used the fire itself—not the email about the fire—to communicate any threat? *United States v. Blackcloud*, No. 26-1024 (brief filed August 28, 2026)

Was the evidence insufficient to convict under **18 USC § 922(a)(6)** when the government did not introduce any evidence that the defendant knew that he was "under Indictment or Information" when he made a payment to a pawn broker as part of a loan to eventually reacquire his own firearm? *United States v. Mejia*, No. 25-1295 (reply brief filed July 20, 2026)

Was the evidence sufficient to prove that this defendant knew that he was a convicted felon under **18 USC § 922(g)(1)**? *United States v. Clark*, No. 25-5141 (submitted on the briefs September 17, 2026)

Is attempted murder under 18 U.S.C. § 1143(a) a crime of violence under **18 USC § 924(c)**? *United States v. Sandoval*, No. 23-4019 (OA September 10, 2025)

Was the evidence insufficient to prove premeditation in this **18 USC § 1111** murder/**18 USC § 924(c), (j)** case? *United States v. Forrester*, No. 25-7092 (reply brief filed October 13, 2026)

Was the evidence insufficient to convict this defendant of voluntary manslaughter under **18 USC § 1112**? *United States v. Smith*, No. 25-7077 (reply brief filed August 26, 2026)

Was the evidence insufficient to convict the defendant of conspiring to commit or committing witness tampering under **18 U.S.C. § 1512**? *United States v. Boyce*, No. 26-2036 (brief filed August 6, 2026)

Was the evidence insufficient to prove the interstate-commerce element in this prosecution for kidnapping (**18 USC § 1201(a)(1)**), robbery (**18 USC § 1951**), and brandishing a firearm during a crime of violence (**18 USC § 924(c)(1)(A)(ii)**)? *United States v. Taylor*, No. 25-5018 (oral argument September 15, 2026)

At this attempted kidnapping (**18 USC § 1201(a)(1)**) trial, was the evidence sufficient to prove the defendant's specific intent to kidnap? *United States v. Harrison*, No. 26-6017 (reply brief filed September 9, 2026)

At this kidnapping (**18 USC § 1201(a)**) trial, was the evidence insufficient to prove that this defendant "held" the victim other than while actively committing aggravated assault and sexual abuse offenses for which he was also convicted? *United States v. Harper*, No. 25-5184 (reply brief filed September 28, 2026)

Was the evidence insufficient to convict this defendant of aggravated identity theft under **18 USC § 1028A(a)(1)** because of a lack of evidence that the defendant misappropriated the means of identification of a living person? *United States v. Freeman*, No. 25-5119 (oral argument May 14, 2026)

Was the evidence of specific intent to kill sufficient to convict the defendant of attempted murder under **18 U.S.C. § 1113**? *United States v. Collins*, No. 25-7017 (oral argument May 12, 2026)

Did the district court err by holding that the defendant could not plead to a lesser included offense under the Major Crimes Act, when a non-Indian defendant charged with the same crime could do so? *United States v. English*, No. 23-1328 (brief filed August 12, 2024) (abated)

In this case involving a direct mail promotion advertising campaign, was the evidence insufficient to convict the defendant of mail fraud under **18 U.S.C. § 1341** because the defendant did not know that the mailer was engaged in a scheme to defraud when he signed the mailer as a client? *United States v. Lytle*, No. 24-1410 (OA January 23, 2026)

In this case involving a direct mail promotion advertising campaign, was the evidence insufficient to convict the defendant of wire fraud under **18 U.S.C. § 1343** because the defendant: (1) did not know that the mailer was engaged in a scheme to defraud when he signed the mailer as a client; (2) did not intend to engage in the scheme to defraud; and (3) did not aid and abet fraudulent conduct by another mailer? *United States v. Lytle*, No. 24-1410 (OA January 23, 2026)

Was the evidence sufficient to prove the specific-intent elements of mail fraud, **18 USC § 1341**, wire fraud, **18 USC § 1343**, and money laundering, **18 USC § 1957**? *United States v. Lopez*, No. 25-2097 (reply brief filed March 30, 2026)

Was the evidence sufficient to prove the specific-intent element of wire fraud/aiding-abetting wire fraud, 18 USC § 1343, where witness testimony established that the defendant did not specifically intend to defraud the victim named in the indictment? *United States v. Vergato*, No. 25-1362 (reply brief filed September 30, 2026)

In this case involving a direct mail promotion advertising campaign, was the evidence insufficient to convict the defendant of a wire-fraud conspiracy under **18 U.S.C. § 1349** because the defendant had no duty to evaluate the promotional material or the client and had no knowledge that specific clients were engaged in a scam? *United States v. Lytle*, No. 24-1410 (OA January 23, 2026)

Was the evidence sufficient to convict this defendant of a forced-labor conspiracy under **18 U.S.C. § 371** and **18 U.S.C. § 1589**, where the government introduced evidence of sporadic, school-based discipline and later supervision of a non-profitable biodiesel lab and no evidence of force, threats, or

abuse for the purpose of obtaining labor? *United States v. Hadley*, No. 25-3144 (reply brief filed August 14, 2026)

Was there sufficient evidence to convict this defendant under **18 USC § 2241(c) and 2246(2)(A), (D)** because the government failed to prove a knowing and intentional touching that qualifies as a sexual act? *United States v. Qualls*, No. 26-7012 (gov't brief filed October 5, 2026)

Was there sufficient evidence to convict the defendant under **18 USC § 2244(a)(3)** based on evidence that the defendant touched the minor victim, without any evidence that the defendant did so with the intent to sexually arouse or gratify? *United States v. Aguilar*, No. 24-2146 (OA November 17, 2025)

Was the evidence sufficient to convict this defendant of sex offenses in Indian Country under **18 USC § 2241, 18 USC 2242, and 18 USC 2243**, in light of inconsistencies in and lack of corroboration for the government's evidence? *United States v. Haight*, No. 25-5132 (oral argument September 15, 2026)

Was the evidence sufficient to convict this defendant of sexually abusing a child under **18 USC § 2246(2)(C)** because the evidence failed to show penetration? *United States v. Toyne*, No. 26-7016 (reply brief filed September 2, 2026)

Was the evidence insufficient to support this defendant's conviction under **18 USC § 2251**? *United States v. Bindues*, No. 24-2117 (OA September 10, 2025)

In a case involving voyeuristic activity and recordings of nude minors (as well as one "upskirt" recording of a fully clothed minor) not engaged in sexually explicit conduct: (1) was the evidence insufficient to convict the defendant of the six counts of attempted production of child pornography under **18 U.S.C. § 2251(a), (e)**? *United States v. Morgan*, No. 24-3186 (OA January 23, 2026)

The defendant captured a zoomed-in screenshot of a minor's genitals from a video of the minor getting undressed and into a bathtub. Does this conduct constitute the "use[] … of any minor to engage in sexually explicit conduct" under **18 U.S.C. § 2251**, or was the evidence insufficient to prove that element of the offense? *United States v. Morgan*, No. 24-3186 (OA January 23, 2026)

At this **18 USC § 2422(b)** trial, was the evidence sufficient to prove the "means or facility of interstate commerce" element based on evidence that the defendant showed the minor victims pornography on the Internet? *United States v. Zamarripa*, No. 25-2161 (reply brief filed October 2, 2026)

If not waived, was the evidence insufficient to prove knowledge, voluntary participation, and interdependence under **21 USC § 846** at this meth conspiracy trial? *United States v. Gutierrez*, No. 25-6164 (gov't brief filed May 13, 2026)

Was the evidence insufficient to convict this defendant of a drug conspiracy under **21 USC § 846**? *United States v. Cruz*, No. 25-6163 (reply brief filed June 10, 2026)

Was the evidence insufficient to prove that this doctor engaged in a continuing criminal enterprise or unlawfully distributed controlled substances resulting in death under **21 USC § 848**? *United States v. Kahn*, No. 25-8004 (oral argument May 14, 2026)

Was the evidence sufficient to convict this defendant of a continuing criminal enterprise under **21 USC § 848**? *United States v. Adegboruwa*, No. 24-4116 (gov't brief filed August 26, 2026)

Was the evidence sufficient to convict this defendant of possession of unregistered silencers under **26 USC § 5861(d)**; specifically, was the evidence sufficient to prove that this defendant knew the silencers found in his bedroom had the characteristics that brought the silencers within the definition of a "firearm" in 18 USC § 921(a)(25) (as cross-referenced in 26 USC § 5845(a))? *United States v. Vano*, No. 25-3128 (oral argument September 16, 2026)

Was the evidence sufficient to prove the existence of a true threat under **18 U.S.C. § 844(e)**? *United States v. Bernard*, No. 26-1109 (brief filed August 27, 2026)

I. Cumulative Error

If two instructional errors are individually harmless, is reversal necessary because of the cumulative effect of the two errors? *United States v. Reger*, No. 24-1411 (OA January 23, 2026)

In this child-pornography-production case, do instructional and evidentiary errors cumulatively warrant reversal? *United States v. Morgan*, No. 24-3186 (OA January 23, 2026)

Does the cumulative effect of juror misconduct, a witness outburst, and instructional error warrant a new trial? *United States v. Seminole* No. 24-8080 (oral argument March 17, 2026)

Does the cumulative effect of multiple errors (Fourth Amendment, self-representation, instructional errors, prosecutorial misconduct) warrant a new trial? *United States v. Morton*, No. 24-2039 (oral argument May 14, 2026)

Do three evidentiary errors and one instructional error cumulatively require reversal in this first-degree murder case? *United States v. Withrow*, No. 24-5040 (oral argument September 15, 2026)

Does prosecutorial misconduct and an erroneous jury instruction cumulatively warrant reversal in this drug case? *United States v. Gonzalez*, No. 25-3163 (oral argument September 16, 2026)

Does cumulative error require a new trial in this drug conspiracy case? *United States v. Cruz*, No. 25-6163 (reply brief filed June 10, 2026)

If not waived, do two instructional errors and a violation of the Court Reporters Act cumulatively require reversal in this continuing criminal enterprise case? *United States v. Adegboruwa*, No. 24-4116 (gov't brief filed August 26, 2026)

Do evidentiary and instructional errors, plus prosecutorial misconduct, cumulatively require reversal in this drug trafficking case? *United States v. Salazar*, No. 25-1298 (gov't brief filed July 31, 2026)

Do two plain evidentiary errors -- (A) eliciting testimony commenting on the defendant's post-*Miranda* partial silence; and (B) introducing an inadmissible hearsay statement from the lead detective -- cumulatively require reversal in this gun case? *United States v. Guerrero*, No. 25-3222 (reply brief filed October 7, 2026)

Do multiple hearsay violations and prosecutorial misconduct cumulatively require reversal in this child sex abuse case? *United States v. Toyne*, No. 26-7016 (reply brief filed September 2, 2026)

Do three evidentiary errors cumulatively require reversal in this murder case? *United States v. Shafe*, No. 25-3177 (gov't brief filed August 28, 2026)

Do multiple evidentiary errors and prosecutorial misconduct cumulatively require reversal in this child sex abuse case? *United States v. Osborn*, No. 26-7009 (gov't brief filed September 25, 2026)

Does prosecutorial misconduct and improper spillover evidence from a dismissed count cumulatively require reversal in this child sex abuse case? *United States v. Zamarripa*, No. 25-2161 (reply brief filed October 2, 2026)

Does prosecutorial misconduct and a right-to-confront-witnesses error cumulatively require reversal in this child sex abuse case? *United States v. Qualls*, No. 26-7012 (gov't brief filed October 5, 2026)

Does cumulative error require reversal in this deprivation-of-civil-rights case, based on the district court's (1) denial of the defendant's motion to suppress; (2) admission of certain evidence as "intrinsic"; and/or (3) handling of the government's belated production of *Brady/Giglio* material? *United States v. Miller*, No. 26-1149 (brief filed September 18, 2026)

XI. Judges and Juries

A. Disqualifying Judges/Reassigning Cases

If this assault-on-an-immigration-officer case is remanded for resentencing, should it be reassigned to a different judge based on the original judge's gratuitous comments at sentencing that, if he could, he would sentence the defendant to be "hanged by the neck until dead"? *United States v. Barron-Esquivel*, No. 25-3218 (reply brief filed October 1, 2026)

B. Magistrates

In this felony case, and if not waived, did the district court impermissibly delegate to a magistrate judge (under 28 U.S.C. § 636) the authority to issue a report and recommendation to resolve guidelines objections? *United States v. Kendrick*, No. 25-7042 (oral argument April 29, 2026)

C. Impartial Jury

Did a juror plainly commit disqualifying misconduct by, contrary to the court's instructions, discussing the case in the jury room before deliberations began? Did other jurors plainly violate the defendant's right to be present at a critical stage when they reported the first juror's misconduct to court staff? Was the district court's inquiry into this juror misconduct plainly inadequate? *United States v. Seminole* No. 24-8080 (oral argument March 17, 2026)

Assuming that there is jurisdiction to consider this appeal, did the district court abuse its discretion by not investigating after receiving credible evidence of improper outside influence on the jury (i.e., the jury deliberated in a room equipped with surveillance devices)? If remanded, should the Court direct the district court to apply a presumption of prejudice prior to further factual development? *United States v. Anglin*, No. 25-6191 (reply brief filed June 11, 2026)

In this case involving an interracial violent sexual assault, (1) if not waived, did the district court violate this defendant's Sixth Amendment right to an impartial jury by denying a for-cause challenge to a prospective juror who disclosed prior sexual victimization; and/or (2) abuse its discretion when

it refused this defendant's request to inquire into potential racial bias during voir dire? Do these errors cumulatively require a new trial? *United States v. Butler*, No. 25-6206 (reply brief filed September 11, 2026)

Did the district court abuse its discretion in denying the defendant's motion for mistrial where (1) immediately after a witness testified on behalf of the defendant, multiple jurors saw officers arrest that same witness outside the courthouse; (2) one of those jurors told the remaining jurors about the witness's arrest; (3) the district court asked each juror whether the incident would affect their impartiality, but did so (A) in front of all the others jurors, and (B) immediately after telling the jurors that they must not let the incident affect their impartiality; and (4) the district court failed to treat the jurors' exposure to the witness's out-of-court arrest as presumptively prejudicial for purposes of ruling on the defendant's motion for mistrial? *United States v. Alexander*, No. 26-5018 (brief filed August 14, 2026)

D. Judge-Jury Communications

Did the district court's deficient response to a jury note about constructive possession fail to disclose the controlling legal principle that a person does not automatically possess the property of a joint tenant, especially considering that the district court did not instruct on constructive possession? *United States v. Lollis*, No. 25-7055 (oral argument May 14, 2026)

D. Jury Instructions

1. Burden of proof

Did the elements instructions plainly misstate the government's burden of proof by directing that the defendant must be found not guilty if the government "failed to prove *each* of these elements" rather than directing that the defendant must be found not guilty if the government failed to prove *any* or *any one or more* of the elements? *United States v. Seminole* No. 24-8080 (oral argument March 17, 2026)

Did the district court plainly err by using its own "stock" jury instruction, which defined "reasonable doubt" as "a real doubt," and defined "proof beyond a reasonable doubt" as "proof of such a convincing character that you would be willing to rely and act upon it without hesitation in the most important of your own affairs"? *United States v. Tomilin*, No. 26-4020 (brief filed July 28, 2026)

2. Jury Unanimity

At this continuing criminal enterprises trial, did the district court violate the defendant's constitutional rights by refusing to instruct jurors that they were required to unanimously agree as to the identity of at least five or more people with respect to whom the defendant occupied an organizing, supervisory, or managerial position? *United States v. Adegboruwa*, No. 24-4116 (gov't brief filed August 26, 2026)

3. Lesser Included Offenses

At this possession-with-intent-to-distribute trial, did the district court reversibly err when it refused to instruct the jury on possession of a controlled substance as a lesser included offense? *United States v. Salazar*, No. 25-1298 (gov't brief filed July 31, 2026)

4. Investigative Techniques

Given the defendant's entrapment defense in this undercover sex-sting case, did the district court err (or plainly err) in instructing the jury categorically that it was "proper" for a government agent to

engage in an undercover scheme? *United States v. Estrada*, No. 25-8003 (oral argument March 17, 2026)

5. Theory of Defense/Affirmative Defense

Did the district court plainly err in giving a self-defense instruction that shifted the burden to the defendant to "restore" his right to self-defense if he was the initial aggressor? *United States v. Seminole* No. 24-8080 (oral argument March 17, 2026)

6. Elements

In this assault case under **18 U.S.C. § 111(a)(1)**, did the district court improperly instruct the jury on the specific intent requirement and the need to find that the defendant committed a simple assault? If so, was this error harmless? *United States v. Regnier*, No. 25-8062 (oral argument May 14, 2026)

Did the district court plainly err when it failed to instruct the jury on the definition of possession after the jury note demonstrated that constructive possession was in issue? *United States v. Lollis*, No. 25-7055 (oral argument May 14, 2026)

Did the district court fail to properly instruct the jury that solicitation of another with the intent to kill and attempt to kill a witness to prevent that witness's attendance and testimony in an official proceeding, **18 USC § 373**, requires the jury to find, beyond a reasonable doubt, that the solicitation was serious, meaning that there was an actual intent that the crime occur? If so, was the error harmless? *United States v. Pena*, No. 25-2090 (oral argument September 17, 2026)

Did the district court err by modifying the Tenth Circuit's Pattern **21 U.S.C. § 841** Instruction to expressly relieve the government of any burden to prove that the defendant knew the precise identify of the controlled substance at issue? *United States v. Boyce*, No. 26-2036 (brief filed August 6, 2026)

In this threat case, **18 U.S.C. § 844**, did the district court err in instructing the jury to disregard the defendant's mental state in determining whether she made a true threat? *United States v. Blackcloud*, No. 26-1024 (brief filed August 28, 2026)

At this trial for a gun-related crime under **18 USC § 922(a)(6)**, did the district court erroneously instruct the jury that the government did not have to prove that the defendant "acted with knowledge that his conduct was unlawful," as the instruction confused the jury and caused them to believe that the defendant's knowledge and intent were irrelevant? *United States v. Mejia*, No. 25-1295 (reply brief filed July 20, 2026)

At this forced labor conspiracy trial, **18 USC § 371** and **18 USC § 1589**, did the district court err when it instructed the jury that the prosecution could prove the offense by showing that the defendant conspired to obtain labor from someone living in a climate of fear sufficient to cause them to perform labor against their will? If so, was the error harmless? *United States v. Jenkins et al.*, No. 25-3140 (reply brief filed August 14, 2026)

At this **18 USC § 2251** attempt trial, did the district court erroneously refuse to instruct the jury that it had to find that the defendant specifically intended to use the minors to engage in sexually explicit conduct? *United States v. Morgan*, No. 24-3186 (OA January 23, 2026)

At this **18 USC § 2251(a)** trial, did the district court's instruction on "lascivious exhibition" misstate the law and fail to provide the jury with a meaningful understanding of the law? *United States v. Morgan*, No. 24-3186 (OA January 23, 2026)

In this prosecution for kidnapping (**18 USC § 1201(a)(1)**), robbery (**18 USC § 1951**), and brandishing a firearm during a crime of violence (**18 USC § 924(c)(1)(A)(ii)**), did the district court abuse its discretion when it: (1) denied the defendant's interstate-commerce instruction; and (2) instructed the jury on the "carrying" element of the section 924(c) count? If so, were the errors harmless? *United States v. Taylor*, No. 25-5018 (oral argument September 15, 2026)

At this drug conspiracy trial under **21 USC § 846**, did the district court err when it gave a *Pinkerton* instruction because section 846 does not include an overt-act requirement? *United States v. Gonzalez*, No. 25-3163 (oral argument September 16, 2026)

At this drug conspiracy trial (**21 USC § 846**), did the district court err (or plainly err) when it instructed the jury that it could infer the defendant's intent to advance or further the object of the conspiracy from knowing acts or omissions? *United States v. Findley*, No. 25-8019 (oral argument September 17, 2026)

At this continuing criminal enterprises trial, **21 USC § 848**, if not waived, did the district court violate this defendant's constitutional rights by refusing to instruct the jurors that the "in concert with" element requires mutual agreement on a common plan or enterprise on the part of five or more other persons? *United States v. Adegboruwa*, No. 24-4116 (gov't brief filed August 26, 2026)

Did the district court plainly err by failing to instruct the jury as to the factors to consider in determining the defendant's status as an Indian or a non-Indian? *United States v. Hebert*, No. 24-7030 (oral argument August 17, 2026)

7. Witness-Related Instructions

Whether the district court violated Rule 605 and/or plainly violated Rule 608 when it instructed the jury that the defendant was "an abuser of drugs" whose testimony must be weighed with greater caution than other witnesses? And whether it was also reversible error for the district court to single out the defendant as a drug abuser when there was evidence that government witnesses were also drug abusers? *United States v. Lee*, No. 25-7084 (oral argument September 15, 2026)

8. Aiding and Abetting

Was the district court's aiding-and-abetting jury instruction erroneous because it permitted the jury to convict based on incidental facilitation, rather than on active participation in the crime? If so, was the error harmless? *United States v. Reger*, No. 24-1411 (OA January 23, 2026)

9. Good Faith

At this mail and wire fraud trial, did the district court err when it refused to give a good-faith instruction? *United States v. Reger*, No. 24-1411 (OA January 23, 2026)

10. *Allen* Charge

Did the district court abuse its discretion when it issued a modified *Allen* instruction where the jury reached an impasse seven hours into their deliberations? *United States v. Ruiz*, No. 24-2128 (oral argument August 17, 2026)

In this gun-licensing case, did the district court abuse its discretion when it gave the jury a coercive Allen instruction after the jury informed the court that it was deadlocked? *United States v. Mejia*, No. 25-1295 (reply brief filed July 20, 2026)

At this forced-labor conspiracy trial, did the district court err (or plainly err) by giving the jury a coercive *Allen* instruction after the jury reported difficulty reaching unanimity? *United States v. Hadley*, No. 25-3144 (reply brief filed August 14, 2026)

11. "On or About"

In this first-degree murder case, did the district court abuse its discretion when it gave an "on or about" instruction in light of the defendant's alibi defense? *United States v. Withrow*, No. 24-5040 (oral argument September 15, 2026)

XII. Rules of Evidence

A. Rules 401, 402, 403 (relevance & undue prejudice)

The district court admitted evidence of uncharged sexual assaults under Rule 414. Should the Court issue a limited remand to the district court for a reasoned ruling on why the district court did not exclude this evidence under Rule 403? *United States v. Morgan*, No. 24-3186 (OA January 23, 2026)

In this murder case, whether the district court abused its discretion under Rule 403 when it admitted a photograph of the victim's heart after the medical examiner surgically removed it from his body? *United States v. Lee*, No. 25-7084 (oral argument September 15, 2026)

If not waived, did the district court reversibly err when, in this drug trial, it allowed the government's law enforcement witness to provide prejudicial nonresponsive answers to questions ("evidentiary harpoons"), informing the jury that the defendant had been on parole when the offense occurred, without taking any corrective action? *United States v. Salazar*, No. 25-1298 (gov't brief filed July 31, 2026)

Did the district court abuse its discretion when it admitted as intrinsic evidence prejudicial "blood photographs" of events that occurred after the crime? *United States v. Harrison*, No. 26-6017 (reply brief filed September 9, 2026)

Did the district court abuse its discretion under Rules 401, 402, and 403 by admitting cumulative and graphic autopsy photos where the only issue in dispute at trial was the identity of the person who murdered the victim (not whether the victim had, in fact, been murdered); and, if so, was the error harmless? *United States v. Martin*, Case No. 25-7078 (reply brief filed September 8, 2026)

Did the district court abuse its discretion under Rule 404(b) by admitting evidence of previous arguments that this defendant had with her husband/murder victim? *United States v. Shafe*, No. 25-3177 (gov't brief filed August 28, 2026)

Did the district court abuse its discretion when it admitted evidence of several uncharged drug sales on other days and in other places as "intrinsic" to the charged single-day drug possession offense? *United States v. Watkins*, No. 25-1471 (gov't brief filed October 6, 2026)

At this sexual-assault-of-minors trial, did the district court plainly err when it allowed a witness who claimed that she was raped through coercion by this defendant to testify under Rules 413/414

without notice under Rule 404(b))? *United States v. Osborn*, No. 26-7009 (gov't brief filed September 25, 2026)

At this murder trial, did the district court abuse its discretion under Rule 403 and violate this defendant's right to a fair trial when it admitted evidence of numerous prior violent acts committed by a prison gang that were unconnected to the defendant or the charged murder? *United States v. Padilla*, No. 25-2164 (brief filed June 26, 2026)

In this murder case, did the district court violate Rules 401 and 402 by excluding evidence of a cooperating witness's bias—specifically, that by cooperating with the government, the witness was avoiding a potential life sentence? *United States v. Lambert*, No. 26-7025 (brief filed September 14, 2026)

In this deprivation-of-civil-rights case, did the district court err in admitting evidence of the defendant's prior contacts with the victim and other minors as "intrinsic"? *United States v. Miller*, No. 26-1149 (brief filed September 18, 2026)

In this distribution case, did the district court err in admitting evidence of the defendant's prior distribution conviction to prove identity in the absence of any unique or distinctive signatures of criminal activity? *United States v. Meek*, No. 26-1100 (brief filed September 28, 2026)

In this assault-resulting-in-serious-bodily-injury case, did the district court err by excluding as cumulative evidence indicating that the victim had previously abused the defendant? *United States v. Phetsacksith*, No. 26-5064 (brief filed October 13, 2026)

B. Rule 404

Did the district court abuse its discretion under Rule 404(b) by admitting evidence of previous arguments that this defendant had with her husband/murder victim? *United States v. Shafe*, No. 25-3177 (gov't brief filed August 28, 2026)

In this distribution case, did the district court err in admitting evidence of the defendant's prior distribution conviction to prove identity in the absence of any unique or distinctive signatures of criminal activity? *United States v. Meek*, No. 26-1100 (brief filed September 28, 2026)

At this sexual-assault-of-minors trial, did the district court plainly err when it allowed a witness who claimed that she was raped through coercion by this defendant to testify under Rules 413/414 without notice under Rule 404(b))? *United States v. Osborn*, No. 26-7009 (gov't brief filed September 25, 2026)

In this assault-resulting-in-serious-bodily-injury case, did the district court err by excluding reverse 404(b) evidence for failure to identify a proper purpose where the evidence would have shown that the victim had subjected her previous boyfriend to a pattern of abuse similar to the one that defendant claimed the victim had subjected him to? *United States v. Phetsacksith*, No. 26-5064 (brief filed October 13, 2026)

C. Rules 412, 413 & 414 (Sexual Assault Evidence)

At this sexual-assault-of-minors trial, did the district court abuse its discretion under Rules 413 and 414 when it allowed three witnesses to testify about uncharged sex acts (as well as another witness

who testified without notice under Rule 404(b))? *United States v. Osborn*, No. 26-7009 (gov't brief filed September 25, 2026)

D. Rules 601-615 (Witnesses)

Did the district court plainly err under Rule 602 when it admitted a records custodian's testimony as to the contents of verification letters from the Choctaw Nation and other records not introduced at trial? *United States v. Collins*, No. 25-7017 (oral argument May 12, 2026)

Whether the district court violated Rule 605 and/or plainly violated Rule 608 when it instructed the jury that the defendant was "an abuser of drugs" whose testimony must be weighed with greater caution than other witnesses? *United States v. Lee*, No. 25-7084 (oral argument September 15, 2026)

Did the district court abuse its discretion under Rule 609 when it refused to permit the defendant to cross-examine the government's main witness about the witness's prior attempted murder conviction? If so, was the error harmless? *United States v. Cruz*, No. 25-6163 (reply brief filed June 10, 2026)

Did the district court violate this defendant's right to a fair trial when it permitted evidence of the defendant's prior rape conviction and sex-offender-registration requirement on cross-examination of a government witness under the theory that defendant opened the door to this testimony? *United States v. Osborn*, No. 26-7009 (gov't brief filed September 25, 2026)

In this murder case, did the district court violate Rule 607 by precluding the defendant from attacking a cooperating witness's credibility via evidence that, by cooperating, the witness was avoiding a potential life sentence? *United States v. Lambert*, No. 26-7025 (brief filed September 14, 2026)

E. Rules 701-706 (Opinions and Expert Testimony)

At this child pornography production trial, did the district court abuse its discretion when it refused to exclude testimony under Rule 702 from an FBI agent purporting to be an expert on "grooming" because: (1) the expert's opinions were not the product of reliable principles and methods; (2) the expert's opinions were irrelevant and not helpful to the jury; and (3) the testimony was substantially outweighed by the danger of unfair prejudice? If so, was the error harmless? *United States v. Bindues*, No. 24-2117 (OA September 10, 2025)

Did the district court abuse its discretion in allowing experts to give legal definitions of what constitutes an authorized prescription under 18 U.S.C. § 821 that were both (1) inaccurate and (2) violated Fed. R. Evid. 702? *United States v. Kahn*, No. 25-8004 (oral argument May 14, 2026)

In this assault case, did the district court abuse its discretion when it precluded the defendant's expert witness from testifying about the defendant's mental and medical health at the time of the incident in support of his claim that he did not intend to commit the assault? *United States v. Regnier*, No. 25-8062 (oral argument May 14, 2026)

If not waived, did the district court commit reversible error when it permitted the government's law enforcement expert witness to testify regarding a matter beyond his expertise that impermissibly commented on the credibility of this defendant's recorded statements? *United States v. Salazar*, No. 25-1298 (gov't brief filed July 31, 2026)

In this murder case, did the district court abuse its discretion under Rule 701(c) when it permitted a law-enforcement lay witness to testify about retention firearms holsters, a matter requiring specialized technical knowledge? *United States v. Shafe*, No. 25-3177 (gov't brief filed August 28, 2026)

Did the district court err in excluding this defendant's memory expert where the proposed expert was a professor who specializes in memory, the proposed testimony was supported by extensive academic literature, and the integrity of the victim's memory was the central issue; and, if so, was the error harmless? *United States v. Harper*, No. 25-5184 (reply brief filed September 28, 2026)

F. Rules 801-807 (hearsay)

Did the district court abuse its discretion when it admitted a testifying child witness's hearsay statements: (1) under Rule 807; and (2) to provide background information about the investigation? *United States v. Morgan*, No. 24-3186 (OA January 23, 2026)

Was the admission of – (1) verification letters from the Choctaw Nation; and (2) an Oklahoma DHS employee's testimony as to the substance of hearsays statements regarding the defendant's tribal enrollment status – plainly erroneous because the evidence was inadmissible hearsay? *United States v. Collins*, No. 25-7017 (oral argument May 12, 2026)

Did the district court err when it excluded some of the defendant's post-arrest statements as hearsay because the statements were not introduced for the truth of the matter asserted? If so, was this error harmless? *United States v. Clark*, No. 25-5141 (submitted on the briefs September 17, 2026)

Did the admission of a testifying witness's grand-jury testimony violate Rule 803(5)? If so, was the error harmless? *United States v. Withrow*, No. 24-5040 (oral argument September 15, 2026)

Did the district court abuse its discretion when it admitted coconspirator statements under Rule 801(d)(2)(E) without first making the required on-the-record findings that any such statement was made "during" or "in furtherance of" the charged forced-labor conspiracy? If so, was the error harmless? *United States v. Peach*, No. 25-3145 (reply brief filed August 14, 2026)

Whether the district court abused its discretion when it prevented the defendant from introducing a codefendant's guilty plea allocution under Rule 804(3)? And did this error violate the defendant's right to present a complete defense and deprive him of a fair trial? *United States v. Smith*, No. 25-7077 (reply brief filed August 26, 2026)

In this child-sex-abuse case, did the district court abuse its discretion (or, if not waived, plainly err) when it: (1) admitted the victim's hearsay statements – describing alleged earlier abuse – as an excited utterance under Rule 803(2); and/or (2) admitted the victim's journal entry as a present sense impression under Rule 803(1)? *United States v. Toyne*, No. 26-7016 (reply brief filed September 2, 2026)

Did the district court commit plain error when it violated the rule against hearsay by admitting a law enforcement officer's testimony recounting what he had been told by an individual during the individual's proffer? *United States v. Shafe*, No. 25-3177 (gov't brief filed August 28, 2026)

Did the district court plainly err by admitting co-conspirator statements under Fed. R. Evid. 801(d)(2)(E)? *United States v. Boyce*, No. 26-2036 (brief filed August 6, 2026)

XIII. Sentencing

A. Recidivist Statutes/Armed Career Criminal Act (18 U.S.C. § 924(e))/4B1.2

Is the federally protected activities statute, 18 USC § 245(b)(1)(A), a crime of violence under 18 USC § 924(c)? *United States v. Pena*, No. 25-2090 (oral argument September 17, 2026)

In this illegal reentry case, does the enhanced sentence under 8 USC § 1326(b)(2) violate the Fifth and Sixth Amendments because the defendant did not admit "the existence and timing" of the prior aggravated felony conviction? (issue foreclosed by *Almendariz-Torres*) *United States v. Trujillo*, No. 25-2124 (oral argument September 17, 2026)

Did the district court plainly err when it considered this defendant's prior Illinois aggravated battery conviction a crime of violence under USSG § 4B1.2 because the offense can be committed nonviolently? *United States v. Wilcoxen*, No. 25-1469 (reply brief filed September 9, 2026)

Did the district court err when it determined that Colorado first-degree assault is a crime of violence because the statute encompasses causing non-physical, mental harm, as well as causing harm to oneself? *United States v. Wheaton*, No. 25-1446 (reply brief filed September 2, 2026)

Whether, to impose an enhanced mandatory life sentence under 18 USC § 3559(e)(1), a jury must find beyond a reasonable doubt that the defendant's prior conviction qualified as a "prior sex conviction in which a minor is a victim"? Alternatively, whether an Oklahoma second-degree rape conviction plainly qualifies as a prior sex conviction in which a minor is a victim? *United States v. Osborn*, No. 26-7009 (gov't brief filed September 25, 2026)

Did the district court (1) err by treating federal bank robbery as a crime of violence (because it can be committed by extortion); (2) plainly err by treating Texas aggravated assault as a crime of violence (because it can be committed against an unborn fetus); and (3) plainly err by treating Texas aggravated robbery as a crime of violence (because it can be committed recklessly), all for the purpose of concluding that defendant constituted a career offender under U.S.S.G. § 4B1.1? *United States v. Lewis*, No. 26-4037 (brief filed October 9, 2026)

B. Allocution

Did the district court plainly err by conclusively stating that Mr. Palma would receive a guidelines sentence –i.e., life imprisonment—before allocution? *United States v. Palma*, No. 25-7027 (reply brief filed March 23, 2026)

If not waived, did the district court plainly err by conclusively stating that the defendant would receive a guideline sentence—i.e., life imprisonment—before the defendant allocuted? *United States v. Wilson*, No. 25-7029 (brief filed August 28, 2026)

C. Procedural Reasonableness

In this vehicular manslaughter case, assuming this issue is not waived or forfeited, is the statutory maximum upward-variant 96-month sentence procedurally unreasonable because the district court [1] failed to provide an adequate explanation about why the defendant's criminal history warranted the variance; and [2] based the variance on the need to provide correctional treatment? If this was error, was it harmless? *United States v. Williams*, No. 24-7073 (submitted on briefs September 10, 2025)

Did the district court commit plain error under the Fifth and Sixth Amendments when it allowed the government to use the defendant's statements from a court-ordered mental examination to argue dangerousness at sentencing? *United States v. Lewis*, No. 24-6148 (OA November 19, 2025)

If not waived, did the district court commit procedural error (plain or otherwise) when it announced its "gut" feeling that a 72-month sentence was appropriate, and then reverse-engineered a hypothetical and inapplicable guideline range to justify that sentence? *United States v. Cruz*, No. 24-1306 (oral argument March 17, 2026)

Did the district court plainly err when it failed to adequately explain its reasons for sentencing the defendant to a within-guidelines-range 360-month prison sentence for child abuse and child neglect convictions? *United States v. Collins*, No. 25-7017 (oral argument May 12, 2026)

In this murder case, is the 456-month prison sentence procedurally unreasonable? *United States v. Martin*, No. 25-7057 (oral argument September 15, 2026)

In this stalking/gun case, is the 360-month upward departure/variance plainly procedurally unreasonable because the district court failed to give proper notice when it departed upward and when it refused to continue the sentencing hearing before departing (or varying) upward? *United States v. Mentzer*, No. 25-3132 (oral argument September 16, 2026)

In this mail fraud case involving harvested body parts, did the district court plainly err in rejecting evidence of this defendant's post-sentencing rehabilitative efforts on the grounds that she was expected to follow rules and would receive good-time credit by the Bureau of Prisons for doing so? *United States v. Hess*, No. 25-1354 (submitted on the briefs September 16, 2026)

Is this defendant's above-guideline sentence procedurally unreasonable (plainly or otherwise) because the district court failed to address the remoteness of the deportations and convictions the court relied on in imposing the upward variance? *United States v. Mora*, No. 25-5030 (reply brief filed November 13, 2025)

In this child-pornography case, did the sentencing court plainly err when it based the length of this defendant's 36-month prison sentence in part on its desire to impose in-prison mental health treatment, in violation of the Supreme Court's opinion in *Tapia v. United States*? *United States v. Green*, No. 25-6210 (reply brief filed August 24, 2026)

If not waived, is the upward variance to the statutory maximum in this assault-on-an-immigration-officer case procedurally unreasonable because the district court relied on unsupported facts, unreliable information, and speculation, and made comments that undermined the fairness of the sentence? *United States v. Barron-Esquivel*, No. 25-3218 (reply brief filed October 1, 2026)

If not waived, did the district court violate Rule 32(i)(3)(B) when it relied on objected-to portions of the PSR, without the government presenting any supporting evidence, to impose an upward variance? *United States v. Castillo-Delgado*, No. 25-1475 (gov't brief filed September 11, 2026, 2026)

Whether the district court violated this drug defendant's Sixth Amendment rights by using unadmitted facts not found beyond a reasonable doubt when imposing a 26-year sentence? *United States v. Young*, No. 25-2129 (reply filed August 6, 2026)

Did the district court commit reversible plain error under the Due Process Clause and/or Federal Rule of Criminal Procedure 32 when it relied on an undisclosed victim-impact statement, first introduced by the government at the sentencing hearing, to justify an upward variance? *United States v. Bates*, No. 26-3015 (reply brief filed October 6, 2026)

If not waived, did the district court plainly err in failing to apply the 2025 amendments to the United States Sentencing Guidelines—which took effect on November 1, 2025—during the defendant's December 3, 2025 sentencing hearing? *United States v. Beasley*, No. 25-1459 (brief filed July 24, 2026)

In this involuntary-manslaughter case, did the district court err where, without notice, it sua sponte imposed a substantial upward variance based on "facts" that (1) didn't appear in the PSR and (2) were not supported by any record evidence? *United States v. Brixey*, 26-5036 (brief filed July 29, 2026)

Did the district court plainly err by relying on BOP's ability to award good-time credits as a reason to deny the defendant's request for a downward variance at his resentencing hearing, where that request was based on the rehabilitative strides he had made since his initial sentencing? *United States v. Riddle*, No. 26-1084 (brief filed August 5, 2026)

Did the district court plainly err in denying safety-valve relief under 18 U.S.C. § 3553(f)(5) where the jury's verdict wasn't necessarily inconsistent with the defendant's statements? *United States v. Boyce*, No. 26-2036 (brief filed August 6, 2026)

Did the district court plainly err by imposing a 24-month prison sentence, to be followed by one year of supervised release, where, at sentencing, the district court neither (1) addressed any of the § 3553(a) factors, nor (2) provided any explanation for the sentence it selected? *United States v. Yarbrough*, No. 26-5094 (brief filed September 23, 2026)

Did the district court err by finding that the defendant was ineligible for safety-valve relief under 18 U.S.C. § 3553(f) where the district court's finding rested on its erroneous application of (1) U.S.S.G. § 3B1.1(c)'s 2-level supervisor enhancement and (2) U.S.S.G. § 2D1.1(b)(1)'s 2-level firearm enhancement? *United States v. Callejas-Beltran*, No. 26-1261 (brief filed September 24, 2026)

In this failure-to-register case, is the defendant's prison sentence of 12 months and 1 day procedurally unreasonable where (1) the district court failed to ensure that defendant had reviewed the PSR, and (2) the district court failed to resolve a material factual dispute that became apparent during allocution? *United States v. Strimple*, No. 26-5096 (brief filed September 28, 2026)

D. Substantive Reasonableness

In this vehicular manslaughter case, is this defendant's statutory maximum upward-variant 96-month sentence substantively unreasonable because **[1]** there was not a sufficiently compelling reason for the sentence; **[2]** the sentence creates an unwarranted disparity; **[3]** there was no basis for finding that the defendant's criminal history was underrepresented; **[4]** the sentence gives no weight to the defendant's acceptance of responsibility; and **[5]** the sentence is impermissibly premised on the need for correctional treatment? *United States v. Williams*, No. 24-7073 (submitted on briefs Sept. 10, 2025)

In this fraud case involving cremation services, is the upward-variant 180-month sentence substantively unreasonable because the district court did not articulate "legally cognizable grounds" for the variance? *United States v. Koch*, 25-1179 (submitted on the briefs September 16, 2026)

Is this defendant's above-guideline sentence substantively unreasonable given the remoteness of the deportations and convictions the court relied on in imposing the upward variance? *United States v. Mora*, No. 25-5030 (reply brief filed November 13, 2025)

In this murder case, is the 456-month prison sentence substantively reasonable? *United States v. Martin*, No. 25-7057 (oral argument September 15, 2026)

In this stalking/gun case, is the 360-month upward departure/variance substantively unreasonable because the district court failed to consider the defendant's acceptance of responsibility and other mitigating factors and imposed a sentence greater than necessary to achieve the statutory purposes of sentencing? *United States v. Mentzer*, No. 25-3132 (oral argument September 16, 2026)

In this illegal-reentry case, is the 70-month within-guidelines-range sentence substantively unreasonable because the district court failed to consider that most of the defendant's criminal conduct occurred in the age of development and was remote in time? *United States v. Trujillo*, No. 25-2124 (oral argument September 17, 2026

In this illegal reentry case, is the district court's 63-month upward variance substantively unreasonable? *United States v. Mendez*, No. 25-7051 (oral argument September 17, 2026)

Is the 372-month sentence in this drug conspiracy case substantively unreasonable because: (1) the district court did not properly evaluate the defendant's very low criminal history or properly consider the defendant's age; and/or (2) the defendant's sentence is arbitrary compared to the lower sentences imposed on similarly situated codefendants? *United States v. Cruz*, No. 25-6163 (reply brief filed June 10, 2026)

In this case involving an assault on an immigration officer, whether the upward-variant statutory maximum 20-year sentence is substantively unreasonable because the extent of the variance was not adequately justified? *United States v. Barron-Esquivel*, No. 25-3218 (reply brief filed October 1, 2026)

In this fentanyl distribution case, is the 4-year prison upward-variant prison sentence substantively unreasonable because: (1) it was based entirely on an inference, disclaimed by the government, that the defendant's drug sale contributed to a third party's death; and (2) the court did not explain the relevance of other section 3553(a) factors when imposing the sentence? *United States v. Daniels*, No. 26-6009 (reply brief filed August 13, 2026)

In this case involving a federal prisoner convicted of threatening a federal officer, is the 46-month upward-variant consecutive sentence substantively unreasonable? *United States v. Jones*, No. 26-6032 (reply filed July 30, 2026)

In this armed robbery case, is the upward-variant 240-month prison sentence substantively unreasonable? *United States v. Castillo-Delgado*, No. 25-1475 (gov't brief filed September 11, 2026, 2026)

In this drugs and guns case, whether the 26-year within-range sentence was substantively unreasonable (if not waived)? *United States v. Young*, No. 25-2129 (reply filed August 6, 2026)

In this kidnapping case, is the upward-variant 204-month prison sentence substantively unreasonable? Does the sentence create an unwarranted disparity with a codefendant's more lenient sentence? *United States v. Muhammad-Springs*, No. 26-3033 (gov't brief filed August 28, 2026)

In this felon-in-possession resentencing case, is the defendant's 120-month prison sentence substantively unreasonable because it gives inadequate weight to certain statutory sentencing factors? *United States v. Campbell*, No. 26-6041 (gov't brief filed August 25, 2026)

In this fraud case, is the defendant's 204-month prison sentence substantively unreasonable in light of the sentences imposed for similar offense conduct in (1) the same case; (2) the same district; and (3) the nation? *United States v. Erhinmwinrose*, No. 26-1130 (brief filed July 28, 2026)

In this felon-in-possession-of-a-firearm case, is the defendant's 54-month prison sentence substantively unreasonable, where (1) this sentence is double the high end of the applicable guidelines range, and (2) the only factor that could have possibly justified an upward variance of this magnitude was a factor that the district court expressly disclaimed as the basis for its decision? *United States v. Buford*, No. 26-6071 (brief filed September 23, 2026)

In this failure-to-register case, is the defendant's prison sentence of 12 months and 1 day substantively unreasonable, given the nature of the offense, the history and characteristics of the defendant, and the sentences of other (similarly situated) defendants? *United States v. Strimple*, No. 26-5096 (brief filed September 28, 2026)

XIV. Guidelines Sections

A. USSG § 1B1.3

If not waived, did the district court clearly err when it included as relevant conduct under USSG § 1B1.3 drug quantities from two cooperating informants' out-of-court hearsay statements? *United States v. Kendrick*, No. 25-7042 (oral argument April 29, 2026)

Did the district court (clearly or plainly) err when it included as relevant conduct under USSG § 1B1.3 drug quantities: (1) from insufficiently reliable and uncorroborated hearsay statements of a cooperating witness who lied to the government, violated the terms of his cooperation agreement, and refused to testify under oath; and (2) derived from conduct unrelated to and temporally remote from the offenses of conviction? *United States v. Findley*, No. 25-8019 (oral argument September 17, 2026)

In this fraud and identity theft case, did the district court err (or clearly err) when it considered an armed robbery as relevant conduct under USSG § 1B1.3(a)(1)(B) to increase the base offense level via increases under USSG § 2B1.1(b)(3) (loss amount) and 2B1.1(b)(16)(B) (use of a firearm)? *United States v. Alexander*, No. 25-5182 (oral argument September 17, 2026)

B. USSG § 2A2.1

Did the district court err when it applied an increase under USSG § 2A2.1 by giving the defendant's plea-based state conviction issue-preclusive effect on the question of intent to kill and forbidding the

defendant from arguing that he lacked the specific intent to kill? *United States v. Lewis*, No. 24-6148 (OA November 19, 2025)

C. USSG § 2A2.2

In this assault case, did the district court err when it applied USSG § 2A2.2 instead of USSG § 2A2.4 because there was no evidence that the defendant intended to cause serious bodily injury? *United States v. Regnier*, No. 25-8062 (oral argument May 14, 2026)

D. USSG § 2A3.2

Did the district court err when it cross-referenced to a different guideline based on a finding that the defendant engaged in sex with another person by force and/or coercion? *United States v. Haight*, No. 25-5132 (oral argument September 15, 2026)

E. USSG § 2A4.1

Did the district court err when it applied an increase under USSG § 2A4.1 for "otherwise us[ing]" a firearm during a kidnapping? *United States v. Muhammad-Springs*, No. 26-3033 (gov't brief filed August 28, 2026)

Did the district court err by declining to apply U.S.S.G. § 2A4.1(b)(1)'s ransom enhancement where the defendant demanded money from the kidnapped person, rather than from a third party? *United States v. Allen*, No. 26-3119 (gov't appeal) (brief filed August 19, 2026)

Did the district court err in declining to apply U.S.S.G. § 2A4.1(b)(1)'s ransom enhancement where the defendant demanded money from the kidnapped person, rather than from a third party? *United States v. Muhammad-Springs*, No. 26-3051 (gov't appeal) (brief filed August 28, 2026)

F. USSG § 2B1.1

Did the district court commit procedural sentencing error when it rejected the but-for-causation standard governing pecuniary-loss inquiries under U.S.S.G. § 2B1.1? *United States v. Reger*, No. 24-1411 (OA January 23, 2026)

In this fraud/theft/false statements/impersonating an officer case, did the district court err when it: (1) imposed a two-level sophisticated means increase under USSG § 2B1.1(b)(10); and/or (2) imposed a two-level misrepresentation increase under USSG § 2B1.1(b)(9)? *United States v. Gutierrez*, No. 25-4104 (oral argument May 14, 2026)

If not waived, did the district court erroneously calculate the loss amount under USSG § 2B1.1(b)(1) by treating seized, investor-designated assets as actual loss without making the necessary findings? *United States v. Lopez*, No. 25-2097 (reply brief filed March 30, 2026)

In this fraud and identity theft case, did the district court err when it considered an armed robbery as relevant conduct to increase the base offense level via increases under USSG § 2B1.1(b)(3) (loss amount) and 2B1.1(b)(16)(B) (use of a firearm)? *United States v. Alexander*, No. 25-5182 (oral argument September 17, 2026)

G. USSG § 2B3.1

Did the district court err by applying a two-level enhancement for bodily injury under U.S.S.G. § 2B3.1(b)(3)(A) because the evidence was insufficient to demonstrate that the victim's injuries were "significant"? *United States v. Boyce*, No. 26-2033 (brief filed September 10, 2026)

Did the district court err in finding that the victims' injuries were between bodily injury and serious bodily injury for purposes of imposing a 3-level increase under U.S.S.G. § 2B3.1(b)(3)(D) where the district court relied solely on the fact that two of the three victims required staples to close their lacerations and one of them was still experiencing "some" pain when the staples were removed? *United States v. Torres-Roman*, No. 26-1046 (brief filed September 18, 2026)

Did the district court err in ruling that moving victims within the same room constituted abduction for purposes of imposing a four-level increase under U.S.S.G. § 2B3.1(b)(4)(a)? *United States v. Torres-Roman*, No. 26-1046 (brief filed September 18, 2026)

H. USSG § 2D1.1 (drugs)

If not waived, did the district court clearly err when it: (1) included as relevant conduct under USSG § 1B1.3 drug quantities from two cooperating informants' out-of-court hearsay statements; and (2) included a two-level increase for maintaining a premises under USSG § 2D1.1(b)(12)? *United States v. Kendrick*, No. 25-7042 (oral argument April 29, 2026)

Did the district court (clearly or plainly) err in its drug-quantity determination under USSG § 2D1.1 because it relied on (1) insufficiently reliable and uncorroborated hearsay statements of a cooperating witness who lied to the government, violated the terms of his cooperation agreement, and refused to testify under oath; and (2) conduct unrelated to and temporally remote from the offenses of conviction? *United States v. Findley*, No. 25-8019 (oral argument September 17, 2026)

Did the district court err when it applied a two-level increase under USSG § 2D1.1(b)(1) based on the defendant's possession of a bat and a baton during an unrelated conflict with an acquaintance five days before his arrest for drug trafficking? *United States v. Barrera*, No. 25-8049 (oral argument September 17, 2026)

Did the district court clearly err when it applied a 2-level increase under USSG § 2D1.1(b)(16)(A) (using friendship or affection to involve someone with minimal knowledge of the illegal enterprise)? *United States v. Crawford*, No. 26-7011 (reply brief filed August 21, 2026)

Did the district court err when it: (1) converted cash into kilograms of converted drug weight without first finding that the conversion ratio bore sufficient indicia of reliability; and/or (2) failed to make an individualized finding attributing fentanyl found on the passenger side of a vehicle to the defendant? *United States v. Watkins*, No. 25-1471 (gov't brief filed October 6, 2026)

Did the government prove by a preponderance of the evidence that over $230,000 in cash found in a vehicle was attributed to the defendant as drug proceeds under USSG § 2D1.1? *United States v. Young*, No. 25-2129 (reply filed August 6, 2026)

Did the district court err in applying a two-level firearm enhancement under U.S.S.G. § 2D1.1(b)(1) based on evidence of a handgun found in a closet safe, where (1) the firearm was discovered five months after the charged conspiracy ended and nine months after the last sale attributed to the defendant, (2) no drugs were present when the firearm was discovered; and (3) the government presented no evidence regarding when the defendant acquired or last possessed the firearm? *United States v. Callejas-Beltran*, No. 26-1261 (brief filed September 24, 2026)

I. USSG § 2K2.1

If this issue is not waived, did the district court err when it concluded that it was prohibited from considering any state records beyond a state court judgment—which everybody agreed incorrectly identified the defendant's prior offense of conviction—to find that this defendant was convicted of a crime of violence for USSG § **2K2.1(a)** purposes? If so, did the actual prior conviction (Colorado second-degree assault by drugging) qualify as a crime of violence? If so, is the error harmless? *United States v. Cruz*, No. 24-1306 (oral argument March 17, 2026)

Did the district court plainly err when it applied a six-level increase under **USSG § 2K2.1(a)(4)(A)** because this defendant's prior Colorado second-degree-assault-resulting-in-serious-bodily-harm conviction is not a crime of violence? *United States v. Beasley*, No. 25-1282 (oral argument September 16, 2026)

Did the district court err in treating the defendant's prior Colorado second-degree-assault-resulting-in-serious-bodily-injury as a crime of violence for purposes of **USSG § 2K2.1(a)**? *United States v. Riddle*, No. 26-1084 (brief filed August 5, 2026)

Did the district court plainly err in counting this defendant's prior Oklahoma domestic abuse resulting in great bodily harm conviction as a crime of violence under **USSG § 2K2.1(a)(3)**? *United States v. King*, No. 25-6151 (reply brief filed April 1, 2026)

In this machinegun-possession case, did the district court clearly err when it applied a 2-level increase under USSG § **2K2.1(b)(1)(A)** for unlawfully possessing three or more firearms in violation of Colorado law based solely on photographs depicting the firearms, without any evidence that the photographs were taken in Colorado? If so, should the Court limit remand proceedings to the existing record? *United States v. Thomas*, No. 24-1396 (government's brief filed May 21, 2025)

Was the evidence sufficient to find that this defendant possessed additional firearms found in an unoccupied truck the day prior to the defendant's arrest as relevant conduct for purposes of the two-level increase under USSG § **2K2.1(b)(1)(A)**? If so, was the error harmless? *United States v. Bray*, No. 25-7091 (reply brief filed July 24, 2026)

Did the district court err in determining that the defendant committed Colorado fourth-degree arson for purposes of applying a four-level increase under **USSG § 2K2.1(b)(6)(B)** (2024)? *United States v. Kiley*, No. 25-1364 (oral argument September 16, 2026)

Whether the district court properly considered misdemeanor user drug quantities in the defendant's home to apply a sentencing increase under USSG § **2K2.1(b)(6)(B)**? *United States v. Smith*, No. 25-6042 (gov't brief filed May 1, 2026)

Did the district court err in applying a four-level increase under **U.S.S.G. § 2K2.1(b)(7)(B)** based on evidence that the defendant fired a rifle into the air because this evidence was insufficient to prove he committed the New Mexico felony of making a shooting threat? *United States v. Whitehorse*, No. 26-2103 (brief filed August 31, 2026)

Did the district court clearly err in applying **USSG § 2K2.1(b)(6)(B)** by basing its ruling that the defendant threatened another person with a gun on an erroneous finding that the defendant

admitted that he "displayed" a gun to another individual? *United States v. Riley*, No. 25-1355 (reply brief filed July 31, 2026)

Did the district court err (or clearly err) when it applied **USSG § 2K2.1(c)(1)(B)** to cross-reference the second-degree murder guideline because the government did not prove by a preponderance of the evidence that the defendant did not act in self-defense? *United States v. Braxton*, No. 25-1186 (oral argument May 14, 2026)

Did the district court err (or clearly err) when it applied **USSG § 2K2.1(c)** to cross-reference the assault-with-intent-to-commit-murder guideline (USSG § 2A2.1(a)(1)) because: (1) the government did not prove that the defendant shot at the defendant; or (2) that he intended to kill her? *United States v. Camacho*, No. 25-2121 (submitted on the briefs September 17, 2026)

Whether the district court erred by concluding that Milstead did not act in self-defense and applying a cross-reference at **USSG § 2K2.1(c)** to sentence him for an aggravated assault under USSG § 2A2.2? *United States v. Milstead*, No. 25-3199 (reply brief filed August 12, 2026)

J. USSG § 2L1.2

Did the district court plainly err when it imposed a 10-level increase under USSG § 2L1.2(b)(2)(A) because the defendant's prior conviction was less than five years old? *United States v. Trujillo*, No. 25-2124 (oral argument September 17, 2026)

K. USSG § 2S1.1

Did the district court err when it: (1) set the base offense level at 18 under USSG § 2S1.1(a)(2) based on funds laundered by others because that conduct should not have been considered relevant conduct under USSG § 1B1.3(a)(1)(B); (2) applied a six-level increase under USSG § 2S1.1(b)(1) because the defendant knowingly laundered drug-trafficking proceeds; and/or (3) applied a four-level increase under USSG § 2S1.1(b)(2)(C) because the defendant was "in the business of laundering funds"? *United States v. Power-Escobar*, No. 25-4004 (OA November 19, 2025)

Did the district court err when, based on USSG. § 2S1.1, the court used USSG § 2D1.1 to set the base offense level for the defendant's money-laundering conviction where a government witness testified at trial that the defendant was not involved in the underlying drug crimes? *United States v. Hernandez Flores*, No. 26-6013 (corrected brief filed August 7, 2026)

L. USSG § 3A1.1

In this murder case, did the district court err when it applied a vulnerable-victim increase under USSG § 3A1.1(b)(1)? *United States v. Martin*, No. 25-7057 (oral argument September 15, 2026)

On remand, did the district court err when it applied a two-level vulnerable-victim increase under USSG § 3A1.1(b)(2) because the defendant did not have meaningful contact with most of the victims and was unaware of their particular vulnerabilities and never sought to exploit those vulnerabilities? *United States v. Koch*, 25-1179 (submitted on the briefs September 16, 2026)

In this mail fraud case involving harvested body parts, did the district court err in applying the "large number of vulnerable victims" increase under USSG § 3A1.1(b)(2)? If so, was this error harmless? *United States v. Hess*, No. 25-1354 (submitted on the briefs September 16, 2026)

M. USSG § 3A1.3 (restraint of victim)

In this aggravated-sexual-assault and assault-of-an-intimate-partner-by-strangling case, did the district court err (or plainly err) by imposing a two-level enhancement for restraint based on evidence that the defendant force-fed gummy bears to the victim? *United States v. Berryman*, No. 25-5129 (gov't brief filed October 9, 2026)

N. USSG § 3B1.1 (aggravating role)

In this drug-conspiracy case, did the district court plainly err by applying a two-level aggravating-role enhancement under U.S.S.G. § 3B1.1 where the defendant was incarcerated and therefore arguably lacked the power or means to oversee the offense? *United States v. Boyce*, No. 26-2036 (brief filed August 6, 2026)

In this drug-conspiracy case, did the district court err in applying U.S.S.G. § 3B1.1(c)'s 2-level supervisor enhancement based on evidence of (1) an unidentified driver who was never shown to have known about the offense and (2) a single paid delivery by a co-conspirator who himself carried drugs for another dealer and brought in his own customer? *United States v. Callejas-Beltran*, No. 26-1261 (brief filed September 24, 2026)

O. USSG § 3B1.2 (mitigating role)

In this drug trafficking case, did the district court plainly err when it refused to apply a mitigating role decrease under USSG § 3B1.2? *United States v. McElroy*, No. 24-5118 (submission on briefs November 21, 2025)

In this drug-trafficking case, if not waived, did the district court clearly err when it refused to apply a mitigating role decrease under USSG § 3B1.2? *United States v. Kendrick*, No. 25-7042 (oral argument April 29, 2026)

In this Hobbs Act robbery case, did the district court err (or plainly err) in failing to apply a two-level mitigating-role reduction where the defendant merely served as a lookout, and never actually went inside the store? *United States v. Torres-Roman*, No. 26-1046 (brief filed September 18, 2026)

P. USSG § 3C1.1 (obstruction)

Did the district court err in (1) imposing 2 points for obstruction under U.S.S.G. § 3C1.1 and (2) denying acceptance of responsibility points under U.S.S.G. § 3E1.1 where the evidence indicated that the defendant's cellmate—rather than the defendant himself—had damaged their cell in an attempt to escape? *United States v. Torres-Roman*, No. 26-1046 (brief filed September 18, 2026)

Q. USSG § 3C1.2 (reckless endangerment)

Did the district court err in applying U.S.S.G. § 3C1.2's reckless-endangerment enhancement where (1) after threatening to shoot himself, the defendant fled from police with a pistol in his hand, (2) during this two-second armed flight, the defendant "turn[ed], to some extent, towards" the pursuing officers, but then (3) the defendant almost immediately discarded the firearm? *United States v. Gonzales*, No. 26-1082 (brief filed August 14, 2026)

R. USSG § 3E1.1 (acceptance of responsibility)

Did the district court err in denying acceptance-of-responsibility points under USSG § 3E1.1 based on the court's view that defense counsel's PSR objections were frivolous? If so, is the error harmless? *United States v. Cruz*, No. 24-1306 (oral argument March 17, 2026)

Did the district court err in denying a two-level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1 where (1) defendant testified at trial; (2) during this testimony, defendant admitted to committing the charged robbery on one date and to possessing the charged firearm on another date; and (3) consistent with this testimony, the jury convicted the defendant of robbery and being a felon in possession of a firearm, but acquitted him of using, carrying, or brandishing the firearm during the robbery? *United States v. Boyce*, No. 26-2033 (brief filed September 10, 2026)

Did the district court err in (1) adding 2 points for obstruction and (2) refusing to subtract points for acceptance under U.S.S.G. § 3E1.1 based on evidence that the defendant's cellmate—rather than the defendant himself—had damaged their cell in an attempt to escape, where defendant pleaded guilty to criminal mischief based on his failure to alert jail staff to his cellmate's activities? *United States v. Torres-Roman*, No. 26-1046 (brief filed September 18, 2026)

S. USSG § 4A1.2

Did the district court have sufficient record evidence to find that this defendant's prior juvenile sentences were *consecutive* sentences and therefore countable under USSG § 4A1.2(d)? And if not, was the district court's error in counting those sentences harmless in light of the court's decision to depart and vary downward to a sentence that would have been mid-range without the error? *United States v. Dawson*, No. 25-1096 (oral argument March 17, 2026)

Did the district court plainly violate U.S.S.G. § 4A1.2(e) in assigning two criminal-history points to the defendant's prior conviction where (1) the defendant didn't actually serve more than one year and one month for the prior offense; and (2) the sentence for the prior offense was imposed more than ten years before the defendant's commencement of the instant offense? *United States v. Alexander*, No. 26-5018 (brief filed August 14, 2026)

Did the district court plainly err under USSG § 4A1.2(k)(2) when it assessed three criminal history points for a 1996 Florida conviction because: (1) he initially received probation for the conviction; or (2) the sentence was imposed more than 15 years before the instant offense, even though the probationary sentence was revoked in 2014 and resulted in a 46-month prison sentence? *United States v. Conill-Perez*, No. 25-6101 (oral argument May 14, 2026)

T. USSG § 5D1.1(c)

Did the district court plainly err by ordering the defendant—who is subject to deportation—to serve a term of supervised release where the district court neither (1) expressly acknowledged U.S.S.G. § 5D1.1(c)'s statement that courts ordinarily shouldn't impose supervised release in such cases, nor (2) expressly tied the imposition of supervised release to the need for additional deterrence? *United States v. Linares-Soto*, No. 26-1039 (brief filed September 23, 2026).

U. USSG § 5G1.3

Did the district court plainly err when it failed to consider USSG § 5G1.3(c)'s directive that Mr. Collins's federal sentence be concurrent to his then-anticipated state sentence? *United States v. Collins*, No. 25-7017 (oral argument May 12, 2026)

XV. Supervised Release

A. Initial Imposition

Did the district court plainly err by ordering the defendant—who is subject to deportation—to serve a term of supervised release where the district court neither (1) expressly acknowledged U.S.S.G. § 5D1.1(c)'s statement that courts ordinarily shouldn't impose supervised release in such cases, nor (2) expressly tied the imposition of supervised release to the need for additional deterrence? *United States v. Linares-Soto,* No. 26-1039 (brief filed September 23, 2026).

B. Conditions of Supervised Release

In this child-pornography case, did the district court plainly err by imposing a special condition of supervised release that prohibits this defendant from accessing legal adult pornography, in violation of the First Amendment and without undertaking any particularized analysis? *United States v. Green*, No. 25-6210 (reply brief filed August 24, 2026)

If not forfeited/waived, did the district court plainly err/abuse its discretion by imposing a special condition of supervised release that prohibits the defendant from accessing legal adult pornography, in violation of the First Amendment and without undertaking any particularized analysis? *United States v. Blackhorse*, No. 26-4013 (gov't brief filed September 11, 2026)

Did the district court commit plain error (as the government concedes it did) when it imposed, without particularized findings, a special condition of supervised release that requires this defendant to take any medication he may be prescribed during mental health treatment? *United States v. Wheaton*, No. 25-1446 (reply brief filed September 2, 2026)

Did the district court plainly err when it imposed, without making particularized findings, a special condition of supervised release that prohibits the defendant from having contact with males under the age of 18? *United States v. Blackhorse*, No. 26-4013 (gov't brief filed September 11, 2026)

Did the district court plainly err when it imposed a special condition of supervised release that prohibits "displaying gang paraphernalia" because the condition is unconstitutionally vague? *United States v. Wheaton*, No. 25-1446 (reply brief filed September 2, 2026)

Did the district court plainly err in imposing a risk-notification condition of supervised release because that condition was unconstitutionally vague? *United States v. Blackhorse*, No. 26-4013 (gov't brief filed September 11, 2026)

Did the district court plainly err or abuse its discretion when it imposed a risk-notification condition of supervised release without making any supporting finding and/or is the risk-notification condition void for vagueness? *United States v. Warren*, No. 26-4012 (reply brief filed October 8, 2026)

In this child pornography revocation case, whether the district court committed plain error when it imposed a special condition of supervised release that restricts this defendant's access to adult pornography without making the necessary individualized, case-specific findings? *United States v. Burghart*, No. 26-6043 (reply brief filed August 16, 2026)

In this revocation proceeding involving a defendant who was convicted of producing child pornography, whether the district court abused its discretion when, without any analysis, it imposed a supervised-release condition prohibiting the defendant from possessing "any pornographic,

sexually oriented, or sexually stimulating visual, auditory, telephone or electronic signs, signals or sounds from any source, unless part of a treatment regimen." *United States v. Harris*, No. 26-8004 (reply brief filed September 1, 2026).

In this revocation proceeding involving a defendant who was convicted of producing child pornography, whether the district court abused its discretion when it cited the protection of minors as the sole basis for imposing a supervised release condition that prohibits the defendant from engaging in any online sexually explicit chats with adults. *United States v. Harris*, No. 26-8004 (reply brief filed September 1, 2026).

In this revocation proceeding involving a defendant who was convicted of producing child pornography, whether the district court abused its discretion when it imposed a condition that prohibits the defendant from accessing adult pornography online. *United States v. Harris*, No. 26-8004 (reply brief filed September 1, 2026).

In this CSAM case, were the defendant's statements and actions "compelled" for Fifth Amendment purposes where (1) those statements and actions were ostensibly required by certain conditions of his supervised release, and (2) unlike another condition of his supervised release, the relevant conditions did not state that the defendant retained his Fifth Amendment rights? *United States v. Pinkerton*, No. 26-3047 (brief filed August 14, 2026)

Is remand necessary to allow the district court to amend the supervised-release condition calling for sex-offender assessment and treatment in order to clarify that (1) the defendant need only undergo such treatment if the results of an assessment indicate that treatment is warranted, and (2) the treatment cannot infringe upon the defendant's significant liberty interests by, e.g., including a residential component, requiring the defendant to submit to penile plethysmograph testing, or requiring the defendant to take psychotropic drugs? *United States v. Freeman*, No. 25-6202 (brief filed August 28, 2026)

Did the district court plainly err in imposing a condition of supervised release that prohibits the defendant from being associated with minors (except in the presence of a responsible adult who is aware of the defendant's background and offense of conviction) because this condition is impermissibly vague? *United States v. Wilson*, No. 25-7029 (brief filed August 28, 2026)

Did the district court abuse its discretion by imposing a condition of supervised release that required the defendant to take "any mental[-]health medications" as directed by his probation officer where the district court failed to identify what compelling circumstances, if any, might justify this condition? *United States v. Marshall*, No. 26-4057 (brief filed September 3, 2026)

In this CSAM case, did the district court plainly err when, without justification, it imposed special conditions of supervised release that (1) prohibit defendant from possessing "any material that depicts sexually explicit conduct involving adults"; and (2) require defendant to pay for sex-offender treatment, substance-abuse testing, and "computer monitoring and/or management costs for [his] approved computer devices"? *United States v. Castro*, No. 26-3063 (brief filed October 13, 2026)

C. Revocations

This supervised-release-revocation proceeding was based on a new sexual-assault indictment that was dismissed before the proceeding, and on the hearsay statements of a complainant the

government failed to produce. (1) Did the admission of the complainant's hearsay violate the defendant's right to confrontation under Fed. R. Crim. P. 32(b)(2)(C)? (2) Was the evidence insufficient to support revocation? *United States v. Kinzhuma*, No. 25-2051 (reply brief filed July 7, 2026)

In this supervised-release-revocation proceeding, (1) did the district court violate Fed. R. Crim. P. 32(b)(2)(C) by admitting the statements of a non-testifying witness over the defendant's objection where the government failed to demonstrate good cause for the witness's absence; and (2) was there sufficient evidence to find that the defendant violated his conditions of supervised release by possessing a firearm where that firearm was found in the hidden compartment of a vehicle that the defendant had previously exercised control over? *United States v. Solomon*, No. 26-2049 (brief filed August 19, 2026)

D. Revocation Sentences

1. Procedural Reasonableness

Whether the imposition of a new term of supervised release upon revocation plainly violated the Rule 11(c)(1)(C) plea agreement? *United States v. Freeburn*, No. 25-2114 (oral argument May 14, 2026)

Did the district court err by considering this defendant's prior attorneys' withdrawals due to a conflict of interest when determining the length of her revocation prison sentence? *United States v. Uehara*, No. 26-2000 (reply brief filed September 16, 2026)

Did the district court exceed the statutory maximum under 18 USC § 3583(h) when it imposed a 5-year term of supervised release upon revocation when the Rule 11(c)(1)(C) agreement fixed the supervised-release term at 5 years? If not, and if the argument isn't waived, did the district court commit plain procedural error when it failed to meaningfully address the defendant's nonfrivolous argument for no supervised-release term and failed to explain why another five-year term was necessary? *United States v. Cherry-Amos*, No. 26-2031 (government brief filed October 9, 2026)

Did the district court plainly err by considering the need for retribution when determining the defendant's revocation sentence? *United States v. Billsie*, Nos. 26-1077 & 26-1079 (brief filed August 12, 2026)

2. Substantive Reasonableness

Is the 18-month upward-variant sentence substantively unreasonable because the district court failed to consider or analyze the section 3553(a) factors (specifically the need to avoid unwarranted disparities)? *United States v. Minor*, No. 26-6012 (gov't brief filed September 28, 2026)

Is the 5-year statutory maximum supervised-release term imposed upon revocation substantively unreasonable? *United States v. Cherry-Amos*, No. 26-2031 (gov't brief filed October 9, 2026)

Are the defendant's revocation sentences substantively unreasonable where they were based, in part, on the need for retribution? *United States v. Billsie*, Nos. 26-1077 & 26-1079 (brief filed August 12, 2026)

Is the defendant's revocation sentence substantively unreasonable where the district court varied upward from the guidelines range of 4–10 months' imprisonment to the statutory maximum

sentence of 24 months' imprisonment? *United States v. Mandrell*, No. 26-7036 (brief filed September 25, 2026)

XVI. Other Penalties

A. Probation

1. Revocation Sentences

In this probation-revocation case, did the district court err by employing the two-step sentencing process that was (1) outlined in *United States v. Moore*, 30 F. 4th 1021 (10th Cir. 2022), but (2) overruled in *United States v. Moon Seals*, 2026 WL 2547020 (10th Cir. Aug. 28, 2026)? *United States v. Hunter*, No. 25-4162 (brief filed October 2, 2026)

B. Assessments

In this CSAM case, did the district court plainly err by imposing a $10,000 assessment pursuant to 18 U.S.C. § 2259A based on the mistaken belief that it could not consider the defendant's financial resources? *United States v. Castro*, No. 26-3063 (brief filed October 13, 2026)

C. Restitution (18 U.S.C. § 3663, 3664, *et al.*)

When imposing restitution under 18 USC § 1593 in this sex trafficking case, did the district court: (1) clearly err when it found that the defendant was the but-for cause of the victim's losses despite the possibility that prior trauma caused by other individuals may have contributed to the need for medical services; and/or (2) abuse its discretion when it selected 10 years as the cap for future restitution for therapy, psychiatry, and medication? *United States v. Coulter*, No. 24-6026 (argued March 19, 2025)

In this sex-offense case, the district court ordered restitution under 18 U.S.C. § 1593. In doing so, did the district court apply the wrong causation standard to the restitution question, and was its restitution award for therapy, psychiatry, and medication supported by sufficient evidence? *United States v. Coulter*, No. 24-6026 (argued March 19, 2025)

Assuming the issue is not abandoned, did the district court err (or clearly err) when it refused to reduce a restitution award to a victim who had already recovered damages with a civil judgment for the same loss? *United States v. Martin*, No. 25-3048 (OA January 20, 2026)

Did the district court err when it ordered deferred restitution because the government did not request restitution during the 90-day statutory deadline, 18 USC § 3664(d)(5)? *United States v. Seminole*, No. 25-8041 (submitted on the briefs March 17, 2026)

In this sex-trafficking case, (1) did the district court abuse its discretion by relying on speculation to determine the amount of restitution owed; and (2) did the district court plainly err by imposing restitution based, in part, on the alleged reduction in the value of the victim's life? *United States v. Clements*, No. 26-2076 (brief filed August 19, 2026)

D. Forfeiture

Did the district court plainly err by ordering forfeiture based solely on an admission that the defendant never made? *United States v. Callejas-Beltran*, No. 26-1261 (brief filed September 24, 2026)

XVII. Sentence Modifications/Resentencing

A. Retroactive Guidelines Amendment -- 18 USC § 3582(c)(2)

Did the district court abuse its discretion when it denied the defendant's motion to reduce his above-guidelines-range sentence under 18 USC § 3582(c)(2) via Form AO 247 and its brief explanation that the defendant's conviction "involved serious conduct that warrants a significant sentence"? *United States v. Duncan*, No. 24-6235 (OA July 9, 2025)

B. Resentencing Issues

Can a defendant waive or forfeit an argument that the district court, on remand for resentencing, failed to comply with the law of the case doctrine or the mandate rule? *United States v. Wells*, No. 24-1294 (submitted on briefs September 10, 2025)

If not waived, did the law of the case doctrine and the mandate rule require the district court, on remand for resentencing, to apply the downward variance granted by the first sentencing judge? *United States v. Wells*, No. 24-1294 (submitted on briefs September 10, 2025)

If the Court vacates and remands for resentencing because of a guidelines miscalculation, should the Court limit remand proceedings to the existing record? *United States v. Thomas*, No. 24-1396 (government's brief filed May 21, 2025)

XVIII. Appeals/Miscellaneous

A. Jurisdiction

Does the court of appeals have jurisdiction to consider an improper-jury-influence claim even though the district court granted a hearing to consider the claim, and the defendant appealed before the claim was resolved? *United States v. Anglin*, No. 25-6191 (reply brief filed June 11, 2026)

B. Standards of Review

1. Waiver

Did the defendant waive his Fourth Amendment challenge by failing to raise it below and failing to argue good cause on appeal? *United States v. Pappas*, No. 25-1385 (reply brief filed August 17, 2026)

Did the defendant waive his Second Amendment challenge by pleading guilty before the district court ruled on his motion to dismiss? *United States v. Bray*, No. 25-7091 (reply brief filed July 24, 2026)

Did the defendant waive his severance motion via inadequate briefing and/or failure to argue plain error in his opening brief? *United States v. Cruz*, No. 25-6163 (reply brief filed June 10, 2026)

Did the defendant waive his forfeited procedural-sentencing claim by failing to argue plain error in the opening brief? *United States v. Williams*, No. 24-7073 (submitted on briefs September 10, 2025)

Did the government waive its argument that the district court could not dismiss the indictment at the defendant's request during the sentencing hearing because the government failed to object below and failed to argue plain error in the opening brief? *United States v. Forbis*, No. 24-5097 (government appeal) (OA September 11, 2025)

Did the defendant waive his procedural reasonableness challenge because he did not raise the challenge below and did not argue plain error on appeal? *United States v. Mora*, No. 25-5030 (reply brief filed November 13, 2025)

Did the defendant waive his challenge to the district court's sentencing methodology by: (1) not raising it below; and (2) not arguing plain error on appeal? *United States v. Cruz*, No. 24-1306 (oral argument March 17, 2026)

Did the defendant waive his instructional challenge by: (1) not raising it below; and (2) not arguing plain error on appeal? *United States v. Findley*, No. 25-8019 (oral argument September 17, 2026)

Should the Tenth Circuit decline to consider this defendant's sufficiency-of-the-evidence challenges to his mail- and wire-fraud convictions where (1) the jury was instructed on three theories of liability, but (2) the defendant only challenged the sufficiency of evidence as to one of those theories? *United States v. Lytle*, No. 24-1410 (OA January 23, 2026)

Did this defendant waive his sufficiency-of-the-evidence challenge because he did not include the entire trial transcript in the record on appeal? *United States v. Gutierrez*, No. 25-6164 (gov't brief filed May 13, 2026)

Did the defendant waive his guidelines challenge based on statements defense counsel made at the sentencing hearing? *United States v. Reger*, No. 24-1411 (OA January 23, 2026)

Did the defendant intentionally waive his appellate challenge to the district court's sentencing procedure via trial counsel's statements in the district court? *United States v. Cruz*, No. 24-1306 (oral argument March 17, 2026)

Did the defendant waive his guidelines challenge to the loss amount because he did not brief the district court's alternative ground for the loss calculation (intended loss)? *United States v. Lopez*, No. 25-2097 (reply brief filed March 30, 2026)

Did the defendant waive his implied-bias argument where he (1) raised an actual-bias challenge (rather than an implied-bias challenge) to a prospective juror below; (2) raised an implied-bias argument on appeal; and (3) failed to argue plain error? *United States v. Butler*, No. 25-6206 (reply brief filed September 11, 2026)

Did the defendant waive his confrontation-clause and fair-trial challenges where defendant (1) failed to raise these challenges below, and (2) failed to make a plain-error argument on appeal? *United States v. Qualls*, No. 26-7012 (gov't brief filed October 5, 2026)

Did the defendant waive any challenge to the district court's failure to meaningfully explain its decision to impose a five-year term of supervised release where the defendant (1) failed to object to the district court's explanation below, and (2) failed to make a plain-error argument on appeal? *United States v. Cherry-Amos*, No. 26-2031 (government brief filed October 9, 2026)

2. Forfeiture/Plain Error

Did the defendant forfeit his challenge to the lack of an imperfect-defense-of-others instruction because his requested instruction was instead based on principles of involuntary manslaughter and involuntary intoxication? *United States v. Rainford*, No. 24-7022 (OA September 11, 2025)

Did the defendant forfeit his challenge to an "undercover-scheme"-related jury instruction because his appellate argument is different than the objections made below? *United States v. Estrada*, No. 25-8003 (oral argument March 17, 2026)

Did the defendant forfeit his sufficiency-of-the-evidence challenge to the Indian-status-of-the-defendant element because he raised different grounds for acquittal in the district court, or is the issue preserved because the district court sua sponte addressed this issue? *United States v. Hebert*, No. 24-7030 (oral argument August 17, 2026)

Did the defendant forfeit his instructional challenge because he only offered a generalized objection below ("confusing and inappropriate") and did not specifically argue that the instruction was improper because the crime was a specific intent crime? *United States v. Findley*, No. 25-8019 (oral argument September 17, 2026)

Did the defendant forfeit his guidelines challenge premised on the district court's application of an incorrect legal standard because the defendant did not object to the use of the incorrect legal standard in the district court? *United States v. Reger*, No. 24-1411 (OA January 23, 2026)

If not waived, did the defendant at least forfeit his claim that his statutory maximum upward-variant 96-month sentence is procedurally unreasonable because the district court [1] failed to provide an adequate explanation about why the defendant's criminal history warranted the variance; and [2] based the variance on the need to provide correctional treatment? *United States v. Williams*, No. 24-7073 (submitted on briefs September 10, 2025)

If not waived, did the defendant forfeit his procedural-reasonableness claim because he did not object to the calculation or explanation of the sentence in the district court? *United States v. Mora*, No. 25-5030 (government's brief filed October 22, 2025)

E. Motions to Continue

In this sex offense case, did the district court err when it denied the defendant's motion to continue to examine a minor's cell phone that law enforcement had reviewed? *United States v. Haight*, No. 25-5132 (oral argument September 15, 2026)

In this murder case, did the district court err in denying this defendant's motion to continue the trial, which was premised on the government's late disclosure of evidence that heavily impacted the defendant's alibi defense? *United States v. Gonzales*, No. 26-2007 (brief filed June 17, 2026)

XIX. Habeas Issues

A. 28 U.S.C. § 2241

Assuming that (1) appellate jurisdiction exists and (2) the appeal is not moot, did the district court err in granting habeas relief to this non-citizen petitioner—who was subject to a prior order of removal—where the district court (1) concluded that although the petitioner failed to satisfy *Zadvydas*'s six-factor *statutory* test, the petitioner's continued detention without a bond hearing nevertheless violated her *constitutional* right to due process; and (2) ordered such a bond hearing, at which the government would bear the burden of justifying the petitioner's continued detention? (gov't appeal) (oral argument September 15, 2026)

B. 28 U.S.C. § 2254

Assuming the issue is not waived, was this state prisoner's habeas petition timely under 28 U.S.C. § 2244(d)? *Cato v. Bridges*, No. 24-5093 (reply brief filed Dec. 18, 2025)

Did the district court err by granting habeas relief based on actual innocence and new evidence the defendant did not cause the victim's death? *Moore v. White*, No. 23-6133 (state appeal) (OA September 2024)

If not waived, was the state court's determination that *McGirt* is not retroactive as a matter of state law an independent and adequate state procedural rule that can support a determination that this defendant procedurally defaulted his claim that he was denied due process when the State exercised criminal jurisdiction to prosecute him (an Indian) for crimes he committed in Indian country? *July v. Tinsley*, No. 25-5157 (gov't brief filed September 11, 2026)

C. 28 U.S.C. § 2255

Does this Court have jurisdiction to consider this appeal from the denial of a motion to appoint counsel to represent the defendant on a successive § 2255? *United States v. Barrett*, No. 24-7060 (government's brief filed November 8, 2024)

Is this defendant entitled to habeas relief on his claim that his § 924(c) conviction is invalid because his predicate offense could be committed recklessly? *United States v. Barrett*, No. 23-7086 (OA September 9, 2025)

Is it a miscarriage of justice to enforce an appellate waiver against a claim of factual innocence of a § 924(c) conviction? *United States v. Sandoval*, No. 23-4019 (OA September 10, 2025)

Recently Added Cases

United States v. Phetsacksith, No. 26-5064 (brief filed October 13, 2026) (Evid.)

United States v. Castro, No. 26-3063 (brief filed October 13, 2026) (Sent'g:$$$; SR:Conditions)

United States v. Lewis, No. 26-4037 (brief filed October 9, 2026) (USSG)

United States v. Hunter, No. 25-4162 (brief filed October 2, 2026) (Prob.Rev.)

United States v. Meek, No. 26-1100 (brief filed September 28, 2026) (4A; Evid.)

United States v. Strimple, No. 26-5096 (brief filed September 28, 2026) (Sent:PR/SR)

United States v. Favors, No. 26-5075 (brief filed September 25, 2026) (6A:SubAtty)

United States v. Mandrell, No. 26-7036 (brief filed September 25, 2026) (SRVSent:SR)

United States v. Callejas-Beltran, No. 26-1261 (brief filed September 24, 2026) (USSG; Sent:PR)

United States v. Linares-Soto, No. 26-1039 (brief filed September 23, 2026) (USSG; TSR)

United States v. Yarbrough, No. 26-5094 (brief filed September 23, 2026) (Sent:PR)

United States v. Buford, No. 26-6071 (brief filed September 23, 2026) (Sent:SR)

United States v. Torres-Roman, No. 26-1046 (brief filed September 18, 2026) (USSG)

United States v. Miller, No. 26-1149 (brief filed September 18, 2026) (4A; Evid.; Disco)

United States v. Meza, No. 26-1007 (brief filed September 14, 2026) (6A:Atty Role)

United States v. Lambert, No. 26-7025 (brief filed September 14, 2026) (Evid.; 5A; 6A)

United States v. Boyce, No. 26-2033 (brief filed September 10, 2026) (4A:Search; USSG)

United States v. Marshall, No. 26-4057 (brief filed September 3, 2026) (SR:Conditions)

United States v. Rayton, No. 26-3042 (brief filed September 2, 2026) (2A)

United States v. Whitehorse, No. 26-2103 (brief filed August 31, 2026) (USSG)

United States v. Blackcloud, No. 26-1024 (brief filed August 28, 2026) (Jury Ins; Suff'cy; 1A)

United States v. Freeman, No. 25-6202 (brief filed August 28, 2026) (6A:Waiver; SRConditions)

United States v. Wilson, No. 25-7029 (brief filed August 28, 2026) (Allocution; SRConditions)

United States v. Muhammad-Springs, No. 26-3051 (gov't appeal) (brief filed August 28, 2026) (USSG)

United States v. Bernard, No. 26-1109 (brief filed August 27, 2026) (1A; Suff'cy)

United States v. Berryman, No. 25-5129 (brief filed August 24, 2026) (USSG)

United States v. Bates, No. 25-4018 (brief filed August 21, 2026) (T3 Wiretap)