TENTH CIRCUIT ORAL ARGUMENT CALENDAR

Tuesday, December 1, 2026
Wichita, KS
Wichita Cths. Rm. 238

9:00 A.M.
(Holmes, Phillips & Federico)

25-3218 KS United States v. Barron-Esquivel

1. If not waived, is the upward variance to the statutory maximum of 20 years in this assault-on-an-immigration-officer case procedurally unreasonable because the district court (1) relied on unsupported facts, unreliable information, and speculation; and (2) made comments that undermined the fairness of the sentence?
2. Is the sentence substantively unreasonable because the district court failed to adequately justify the extent of the upward variance?
3. If the 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"?

for the government: James Brown
for the defendant: Kayla Gassmann (KS FPD)

25-3222 KS United States v. Guerrero

1. In this felon-in-possession-of-a-firearm case, do two plain evidentiary errors—specifically, (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?

for the government: Duston J. Slinkard
for the defendant: Dan Hansmeier (KS FPD)

26-2049 NM United States v. Solomon

1. In this supervised-release-revocation proceeding, 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?
2. Was the evidence sufficient to prove that the defendant violated his conditions by possessing a firearm where that firearm was found in the hidden compartment of a vehicle that the defendant had previously exercised control over?

for the government: Tiffany Walters
for the defendant: Amanda Skinner (NM FPD)

26-3015 KS United States v. Bates (submitted on the briefs)

1. 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?