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TO HOW TO USE THIS PUBLICATION

You can read this publication to get a summary of each Court published case or take a deeper dive. To go further, we have added a link to the end of each summary. You can click this link to go to a more thorough outline of each case, if you need more information or context. Moreover, you can click the name of the case (in blue) to go to the Court's website to read the entire decision.

Note: although published decisions regularly address many issues the parties raised, the case is normally only given published status for one of those issues. Therefore, in most cases, we will only address that topic in this summary.

"The law is not just a profession, but a vocation to serve justice." – Sonia Sotomayor, Supreme Court Justice

PRETRIAL MATTERS AND DISCOVERY

[United States v. Myrie 24-2045](#)

8 U.S.C. § 1326 is not facially unconstitutional, as it is race neutral and does not discriminate against certain ethnicities. [Read more here](#)

[United States v. Richards 24-3952](#)

District court did not err in finding statutory and constitutional speedy trial time did not expire. Pretrial motions properly deemed to toll time, and the length of the delay did not meet the "threshold" requirement of uncommonly long delay to trigger further constitutional analysis. [Read more here](#)

[United States v. Taylor 25-5408](#)

18 U.S.C. § 922(g)(1) was not unconstitutional as applied to defendant under the Second Amendment. Defendant did not show a lack of dangerousness under *Williams*. [Read more here](#)

SUPPRESSION

[United States v. Liggins 24-1894](#)

The defendant was **not an "aggrieved person,"** so as to seek to suppress evidence obtained as a result of a **Title III wiretap**. [Read more here](#)



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*If we desire respect for the law, we
must first make the law respectable. -
Louis D. Brandeis*



[United States v. Daniels 24-3260](#)

The district court did not commit clear error in finding defendant's *Miranda* rights were knowingly and voluntarily waived. No evidence suggested the waiver was coerced. **While defendant admitted ingesting cocaine, a suspect makes a knowing waiver despite use of an intoxicating substance when the suspect appears "alert, coherent, and lucid."** [Read more here](#)

[United States v. Fellmy 25-5381](#)

No Fourth Amendment search occurred after **drug dog** jumped up onto a lawfully stopped vehicle, **poked its nose inside the open window**, and immediately alerted to the presence of drugs inside. [Read more here](#)

[United States v. Guerrero 24-5859](#)

Miranda's right to counsel warning is inadequate when it does not include language that describes when the right is triggered. [Read more here](#)

[United States v. Woods 24-1988](#)

Officers had probable cause to search Woods' car without a warrant when they **reasonably believed a gun was evidence of a crime** and there was a fair probability that the gun would be in Wood's car. [Read more here](#)

PLEA

[United States v. Messersmith 25-5496](#)

When plea agreement and PSR contain differences in the Guidelines range, **the government did not breach the plea agreement by failing to object** to the district court imposing sentence based on the findings in the PSR. [Read more here](#)

[United States v. Clark 24-4068](#)

Fed.R.Crim.P 11(d) provides procedure for withdrawing a guilty plea before court imposes sentence, "if the defendant can show a fair and just reason for requesting the withdrawal." Defendant raised sufficient factual disputes that "bear on the validity" of the plea; specifically, whether defendant had full knowledge of the plea and the evidence in his case, and whether he had effective assistance of counsel. The Court found **the district court erred in denying motion to withdraw plea without a hearing.** [Read more here](#)

TRIAL AND EVIDENCE ISSUES

[United States v. Maund, et al. 24-5932](#)

During jury deliberations, **the district court provided to the jury some exhibits that were never introduced at the trial.** The district court determined that this error was structural, and granted a new trial. The Court found that **such an error was not structural**, and was, in context, harmless error. They therefore reversed the new trial order.

[Read more here](#)

[United States v. Sherman 24-1470](#)

Recent changes to **FRE 106 allow a part to introduce other parts of a statement under the “rule of completeness”** irrespective of a hearsay objection to those portions. [Read more here](#)

[United States v. McNoriell 24-2047](#)

On plain error review, **the district court did not err in not allowing the defendant, who was acting pro-se, to participate in sidebar conferences during voir dire.** The defendant’s standby counsel did participate in the side bars, and the defendant agreed to this arrangement.

[Read more here](#)

[United States v. Baskerville 24-5547 .](#)

District court **did not err in conducting Remmer hearing to investigate whether the jury was influenced by external intimidation.** District court discharged its investigatory duty by interviewing the foreperson to affirm the jury could proceed fairly. Furthermore, district court did not abuse its discretion in denying the motion for mistrial. The circumstances did not amount to an “extreme situation” to warrant a presumption of prejudice. [Read more here](#)

[United States v. Goldy 24-5544](#)

Whether defendant engaged in an **“official act” is a legal question for the court and not a fact question for the jury.** The district court did not deny defendant right to present a complete defense by excluding defendant’s testimony explaining what “official act” or “official proceeding” meant under Kentucky law, as “official act” is defined by the court. [Read more here](#)

[United States v. Golobic 25-3173/3661](#)

The district court did not abuse its discretion in excusing an ill juror during deliberations and **proceeding with 11 jurors** pursuant to Fed. R. Crim. P. 23(b)(3). [Read more here](#)

[United States v. Curry 25-3108](#)

The district court **did not abuse its discretion in admitting recordings of Curry’s jail calls at trial.** The calls were relevant to the



government's case to connect Curry to the vehicle where contraband was found. [Read more here](#)

[United States v. Bailey 25-5255](#)

The district court properly instructed the jury on the elements of conspiracy and **did not err by failing to sua sponte give a specific instruction as to the credibility of law enforcement witnesses.** [Read more here](#)

SENTENCING

[United States v. Wala 24-6021](#)

This case decided several issues pertaining to **the amount of loss calculated under U.S.S.G. § 2B1.1**. First, the Court rejected a challenge to the use of Application Note 3(E)(v) as an improper definition for “loss.” Second, the Court rejected a challenge to use of subsection (II) of that Application note pertaining to the selling of “goods which are falsely represented as approved by a government regulatory agency.” Finally, the Court rejected a “rule of lenity” argument as to the Guideline. [Read more here](#)

[United States v. Blake 24-2125](#)

Where a district court, after sentencing, added “greater restrictions” in a **special condition of supervised release** than were orally pronounced at sentencing, resentencing was required. [Read more here](#)

[United States v. Green et al 24-3887](#)

A district court can consider a defendant’s statements made at the plea hearing in which he or she equivocates their conduct in deciding to deny an **acceptance of responsibility** adjustment. The Court did, however, remand for a **recalculation of restitution**, finding that future psychological harm is not “bodily injury,” and therefore cannot be recompensed under the VWPA. [Read more here](#)

[United States v. Glover 24-5806](#)

The posting on Facebook of a picture of a rat in the cross hairs of a rifle scope, after the defendant’s plea, was **sufficient to deny him an acceptance of responsibility** adjustment. [Read more here](#)

[United States v. Vanelli 25-5319](#)

The Court considered **whether the Supreme Court decision in *Wooden v. United States*, 595 U.S. 360, 142 S. Ct. 1063, 212 L. Ed. 2d 187 (2022), applied to** a determination of whether two acts of prohibited sexual conduct occurred on occasions different from one another, for purposes of enhancement pursuant to **U.S.S.G. § 4B1.5**. The Court withheld determining if Wooden was controlling, finding that even if it was, the defendant’s actions were on separate occasions. [Read more here](#)



*“The law is the floor,
not the ceiling of
ethics.”* – Thurgood
Marshall, Supreme
Court Justice

[United States v. Florence 24-6152](#)

Defendant stipulated to his prior conviction. Therefore, **no violation of defendant’s Fifth and Sixth Amendment rights occurred** when the district court determined the stipulated-to prior conviction subjected defendant to statutory mandatory-minimum sentence under 18 U.S.C. § 2252A(b)(2). [Read more here](#)

[United States v. Hawkins, et al. 24-6002/25-5063](#)

Defendants pled guilty to various counts related to methamphetamine. The PSR calculated the amount of drugs attributable to Hawkins based on the co-defendant’s unsworn, uncorroborated statement. **The Court of Appeals held the district court erred by relying on the co-defendant’s statement** without other supporting evidence. [Read more here](#)

[United States v. Loines 24-4056](#)

Sentencing enhancement based on a prior serious drug offense was not unconstitutionally imposed **despite the facts of prior conviction not being presented to a jury. It was harmless error** for the court to decide the enhancement, as the available facts in the presentence report supported it, and the defendant admitted to facts. [Read more here](#)

[United States v. Rolon 24-1735](#)

Defendant sentenced based on an increased offense level due to being “under indictment” for a state court offense at the time he committed a federal gun crime, and therefore a “prohibited person” under **U.S.S.G. § 2K2.1(a)(4)(B)**. Defendant had pleaded guilty in state court but was **participating in a diversion program**, leaving the original charge in place. Defendant was “under indictment” as no conviction had been entered in the state felony case. [Read more here](#)

[United States v. Simpson 25-5729](#)

The district court did not err in denying the acceptance of responsibility reduction under U.S.S.G. § 3E1.1(a), despite defendant’s guilty plea. **A defendant is not entitled to a reduction if a plea is "outweighed by conduct inconsistent with" acceptance of responsibility.** Defendant pled guilty during jury selection and minimized his role in the shooting. The district court did not err in finding defendant was not entitled to reduction. [Read more here](#)

[United States v. Buddi 24-5953](#)

The **mens rea term, “knowingly,” as used in 18 U.S.C. § 2422(b), applies to element of minor’s age**, such that an individual must know that the objection of their coercion and enticement is a minor. [Read more here](#)

[United States v. Yousef 25-1426](#)

The Court found **co-conspirators’ actions (including the restraint of a victim, theft, and possession of a firearm) were attributable to Yousef as relevant conduct**—within the scope of

jointly undertaken criminal activity—to support several sentencing enhancements. [Read more here](#)

APPEAL AND POST CONVICTION MATTERS

[United States v. Appleton 25-5051](#)

A sentence imposed after revocation of probation was **bound by the terms of an appeal waiver**, such that the 44-month sentence imposed, which was within the original Guidelines range, could not be appealed.

[Read more here](#)

[United States v. Farris 25-5623](#)

An attorney was **removed from the case, and referred for disciplinary action**, where counsel used **artificial intelligence to prepare a brief, and the resulting work contained misrepresentations of law**. [Read more here](#)

[United States v. Tajwar 24-5085](#)

Tajwar was not entitled to a reduction in sentence pursuant to the retroactively applied U.S.S.G. § 4C1.1, as even though Tajwar was a “zero-point offender,” his offense involved a firearm. [Read more here](#)

[United States v. Spence 25-5081](#)

A defendant has no Sixth Amendment right to counsel at a supervised release revocation proceeding. Because the statute providing for counsel in a revocation setting is limited, review of the waiver of the right to counsel is not de novo, but for abuse of discretion.

[Read more here](#)

[United States v. Collins 25-5395](#)

In determining whether to terminate a term of supervised release early pursuant to 18 U.S.C. § 3583(e)(1), **a district court cannot employ a “blanket rule” to require all defendants to serve a certain portion of their release before a court will consider a motion to terminate.** [Read more here](#)

[United States v. Jackson 25-1223](#)

Where a defendant expressly admitted, in his plea agreement, that he was an Armed Career Criminal, and did not otherwise object to that enhancement at sentencing, **he waived his right to appeal that enhancement, even though the record is clear that the enhancement was in error.** [Read more here](#)

United States v. Williams 25-3426

The district court **properly considered the seriousness of Williams' violation conduct** when revoking his term of supervised release. [Read more here](#)

United States v. Mukhdomi 25-3442

Appellate waivers in the Mukhdomis' plea agreements **did not pose a jurisdictional bar to the Court's review of their Eighth Amendment challenge**. [Read more here](#)

United States v. Hostettler 24-3403

Where the district court **applied an incorrect Second Amendment standard for an as-applied challenge** and the existing record did not contain information about the underlying circumstances of defendant's prior convictions, **a remand with instructions to apply the proper legal standard was the appropriate remedy**. [Read more here](#)

THE EXTENDED VERSIONS

[United States v. Wala 24-6021](#)

The Appellant sold counterfeit alprazolam pills on the dark web. On appeal, he challenged several aspects of the loss guideline. First, he argued that the sentencing court could give no deference to any of the commentary of U.S.S.G. § 2B1.1, in light of the Supreme Court’s *Loper-Bright* decision. But the Court determined that this issue was waived for appeal. Second, the Court rejected a challenge to the use of Application Note 3(E)(v) as an improper definition for “loss,” as circuit precedent, as well as plain error review, made this issue not viable. Second, the Court rejected a factual challenge that subsections (II) and (III) of Application Note 3(E)(v) properly applied to his conduct. The Court found that Wala’s conduct implied that the counterfeit pills were FDA approved, which was sufficient for the enhancement. Finally, the Court turned away Wala’s argument that the rule of lenity applied in his case. [Go back](#)

[United States v. Appleton 25-5051](#)

A sentence imposed after revocation of probation was bound by the terms of an appeal waiver, such that the 44-month sentence imposed, which was within the original Guidelines range, could not be appealed. The Court found “[i]t makes no difference that Appleton’s sentence of imprisonment was imposed only after a probation-revocation hearing. Contrary to Appleton’s suggestion, revocation sentences are part and parcel of the sentence underlying the original conviction,’ not a freestanding, unrelated sentence. [citation omitted]. Appleton’s initial probation depended on her compliance with the terms of supervision, so that her subsequent term of imprisonment following the revocation of her probation was a sentence for the same underlying offense addressed in her initial sentence.” [Go back](#)

[United States v. Blake 24-2125](#)

When a district court, after sentencing, added “greater restrictions” in a special condition of supervised release than were orally pronounced at sentencing, resentencing was required. The court found that the extra restrictions, which related to the conditions imposed at sentencing but were more detailed and onerous, denied the defendant’s right to be present. [Go back](#)

[United States v. Green et al. 24-3887](#)

A district court can consider a defendant’s statements made at the plea hearing in which he or she equivocates their conduct in deciding to deny an acceptance of responsibility adjustment. Here, the defendant made a statement that the court interpreted as denying prior knowledge of the murder (she was indicted as an accessory after the fact). The court ultimately found these equivocations to be dishonest, and denied an acceptance adjustment on this basis. The Court determined that first, it was proper to consider a defendant’s statements made during the plea hearing in determining acceptance, and second, the court did not err in finding that this showed a lack of true remorse. As to restitution, the Court found that the VWPA does not allow future physiological harm to be imposed as restitution, as it was not within the definition of bodily harm. [Go back](#)

[United States v. Glover 24-5806](#)

The posting on Facebook of a picture of a rat in the cross hairs of a rifle scope, after the defendant’s plea, was sufficient to deny him an acceptance of responsibility adjustment. The sentencing court interpreted this posting as the defendant threatening the cooperating witness. The court denied Glover’s argument that even though it was his Facebook page, he could not have posted the picture, as he was incarcerated. The Court upheld these findings, determining that the conduct related to the offense of conviction, that the sentencing court did not error in its determination that Glover had posted the pictures, and that the conduct showed a lack of acceptance of responsibility. [Go back](#)

United States v. Myrie 24-2045

8 U.S.C. § 1326 is not facially unconstitutional, as it is race neutral and does not by its words discriminate against certain ethnicities. The Court rejected an argument that, whatever the purpose of predecessor statutes prior to § 1326, that those statutes “infected” the process by which the current statute was promulgated. The Court rejected a claim that § 1326 was a “mere recodification” of the earlier statutes and found that Myrie had failed to present evidence of a discriminatory purpose behind the current statute. Moreover, “[e]ven if § 1326 has a disparate impact on ‘Mexicans and other Latinos,’ that is not sufficient to state an equal protection claim.” [Go back](#)

United States v. Tajwar 24-5085

Tajwar was not entitled to a reduction in sentence pursuant to the retroactively applied U.S.S.G. § 4C1.1, as even though Tajwar was a “zero-point offender,” his offense involved a firearm. “The ‘close proximity’ between Tajwar’s gun and the drug money along with Tajwar’s ‘easy access’ to the weapon should he need to protect those monies were ‘indicative of a connection’ between the gun and Tajwar’s money laundering activities. [citation omitted] That alone suffices to support the district court’s conclusion that Tajwar brought the gun with him to facilitate his pickup and transport of drug proceeds.” Therefore, it was “in connection with” the offense. [Go back](#)

United States v. Spence 25-5081

A defendant has no Sixth Amendment right to counsel at a supervised release revocation proceeding. Because the statute providing for counsel in a revocation setting is limited, review of the waiver of the right to counsel is not de novo, but for abuse of discretion. Therefore, the district court’s limited inquiry, which did not review all the Bench Book questions regarding the waiver of counsel, was satisfactory to show that Spence waived his right to counsel. [Go back](#)

United States v. Liggins 24-1894

The defendant was not an “aggrieved person,” so as to seek to suppress evidence obtained as a result of a Title III wiretap. That statute allows for suppression of evidence where the interception was “unauthorized,” however, it requires that the person challenging the interception be an “aggrieved person.” The statute “defines ‘aggrieved person’ as ‘a person who was a party to any intercepted wire, oral, or electronic communication or a person against whom the interception was directed[.]’” The Court determined that there was a circuit split as to how an aggrieved person is determined, and that the Court has not decided which method was proper. However, the Court did not decide this issue, finding that under either standard, Liggins was not an aggrieved person under the statute, as he did not participate in the calls, they did not use his cell phone, and did not take place at his home. [Go back](#)

United States v. Maund, et al. 24-5932

During jury deliberations, the district court provided to the jury some exhibits that were never introduced at the trial. The district court determined that this error was structural, and granted a new trial. The Court found that such an error was not structural, and was, in context, harmless error. They therefore reversed the new trial order. The Court made a full analysis of what constitutes structural error, and found that because the admission of the evidence was like a *Remmer* or *Bruton* error, and neither of them was structural, that this error must also be analyzed under a harmless error standard. [Go back](#)

United States v. Sherman 24-1470

Recent changes to FRE 106 allow a part to introduce other parts of a statement under the “rule of completeness” irrespective of a hearsay objection on those portions. While it may have been error not to admit the complained of statement on this basis, the defendant’s failure to invoke the new Rule 106 during trial limited review to plain error, and so any error did not affect the defendant’s substantial rights. [Go back](#)

United States v. Collins 25-5395

In determining whether to terminate a term of supervised release early pursuant to 18 U.S.C. § 3583(e)(1), a district court cannot employ a “blanket rule” to require all defendants to serve a certain portion of their release before a court will consider a motion to terminate. Further, a district court must consider the 18 U.S.C. § 3553(a) factors and must provide sufficient explanation to allow for appellate review. [Go back](#)

United States v. Farris 25-5623

An attorney was removed from the case, and referred for disciplinary action, where counsel used artificial intelligence to prepare a brief, and the resulting work contained misrepresentations of law. The Court found that while counsel cited cases that existed, the AI summaries misrepresented the holdings of those cases. “The risks of reflexively relying on artificial intelligence in the practice of law, however, are well documented. [citation omitted] Attorneys should not utilize technology without knowing the ways in which it can be misused or contribute to inaccuracies. That remains true even when new tools are sponsored by trusted legal technology providers.” [Go back](#)

United States v. Vanelli 25-5319

The Court considered whether the Supreme Court decision in *Wooden v. United States*, 595 U.S. 360, 142 S. Ct. 1063, 212 L. Ed. 2d 187 (2022), applied to a determination of whether two acts of prohibited sexual conduct occurred on occasions different from one another, for purposes of enhancement pursuant to U.S.S.G. § 4B1.5. The Court withheld determining whether *Wooden* was controlling, finding that even if it were, the defendant’s actions were on separate occasions. The facts were that the defendant committed several acts within a 2-day period, but the acts were not the same and had “different goals.” [Go back](#)

United States v. McNoriell 24-2047

On plain error review, the district court did not err in not allowing the defendant, who was acting pro-se, to participate in sidebar conferences during voir dire. The defendant’s standby counsel did participate in the side bars, and the defendant agreed to this arrangement. The Court cautioned the district court, however, that it should not indulge a defendant’s request “for free-wheeling hybrid representation.” “If a district court exercises its discretion to allow hybrid representation, the court nonetheless needs to ensure—at each stage of the trial—that any ‘substantial participation’ by standby counsel is done with the defendant’s permission.” [Go back](#)

United States v. Jackson 25-1223

When a defendant expressly admitted, in his plea agreement, that he was an Armed Career Criminal, and did not object to that enhancement at sentencing, he waived his right to appeal that enhancement. This even though the record is clear that the enhancement was in error. “Jackson did not provoke or invite the district court to err. Rather, he expressly and consistently admitted that he had three qualifying predicate convictions and that he understood the associated consequences of that admission. Accordingly, Jackson’s admissions before the district court constitute waiver.” The Court did note, however, that “if Jackson has any claim of error, it would be that his attorney provided ineffective assistance. And that is a claim that he may raise in a post-conviction, collateral proceeding.” [Go back](#)

United States v. Richards 24-3952

The Speedy Trial Act requires a defendant to be brought to trial 70 days after indictment or first appearance in court, whichever is later. Defendant’s motion to suppress, post-hearing briefs, and the district court’s 30 days to take the motion under advisement tolled that time. Time continued to toll after the government’s motion for status conference was filed and docketed, as the clock stops for “any pretrial motion” that requires a hearing. Richard’s Constitutional speedy trial argument also failed under the Sixth Amendment on plain error review on the length of the delay factor. Of the 11 months between indictment and trial, defendant caused at least five months of delay via motions, and the remaining six months did not meet the length of delay “threshold” to trigger further constitutional scrutiny. [Go back](#)

United States v. Taylor 25-5408

The Court affirmed the district court's finding that 18 U.S.C. § 922(g)(1) was not unconstitutional as applied to defendant under the Second Amendment. While defendant was released pretrial, that finding did not demonstrate a lack of dangerousness. The magistrate judge determined the defendant posed a risk of danger to the community based on prior drug-induced erratic, paranoid, and hallucinating behavior while possessing a firearm. However, the magistrate judge also determined the defendant could be released pretrial despite the risk of danger with certain conditions imposed. By incorporating certain conditions, the court concluded that defendant's dangerousness could be mitigated, specifically if the defendant was unarmed. However, the ability to follow bond conditions speaks to defendant's ability to obey those conditions, not to his dangerousness. Accordingly, under these facts, and defendant's prior criminal history, defendant did not show a lack of dangerousness under *Williams*. [Go back](#)

United States v. Daniels 24-3260

The district court did not err in finding defendant knowingly and voluntarily waived his *Miranda* rights when, despite ingesting cocaine before interrogation, defendant did not show any signs that he was impaired and lacked understanding of what he was waiving. A waiver can be knowing despite intoxication when the suspect appears "alert, coherent, and lucid." Defendant's course of conduct showed he understood his rights; thus, his refusal to sign waiver of rights from did not render waiver invalid. And no evidence suggested that the waiver was coerced, so as to be involuntary. [Go back](#)

United States v. Fellmy 25-5381

During a lawful traffic stop, officer conducted a K-9 sniff for drugs. When officer tapped the passenger side windowsill, the dog jumped up, rested her two paws on the windowsill, stuck her nose partially through the open window, and then alerted to the presence of drugs. The Court held no Fourth Amendment search occurred. Under *Kats*' reasonable expectation of privacy analysis, no search occurred because no expectation of privacy with respect to illegal contraband. Under *Jones*' trespass test, while the drug dog was on scene with the intent to obtain information, the dog's contact with the vehicle was incidental and minimally invasive; therefore, the dog's contact with the vehicle was not a "physical intrusion" under *Jones*. [Go back](#)

United States v. Messersmith 25-5496

Defendant's plea agreement and the PSR varied in two ways: the PSR included a reckless endangerment enhancement, and the PSR calculated a higher base offense level. The parties acknowledged the plea agreement was miscalculated. The district court sentenced the defendant to the Guidelines range calculated in the PSR including the reckless endangerment enhancement. The Court held that the government did not breach the plea agreement for failing to object to the enhancement or the higher base offense level calculated in the PSR. The government was free to advocate for an enhancement that was not expressly contemplated in the plea agreement. The government also advocated for a sentence consistent with the plea agreement's terms rather than the base level offense calculation set forth in the PSR. The district court was independently obligated to calculate the Guidelines correctly. [Go back](#)

United States v. Baskerville 22-5547.

District court did not err in failing to individually question jurors regarding potential external intimidation. Defendants' *Remmer* arguments on appeal challenging the lack of individual questions were waived or failed under plain-error standard. *Remmer* requires that defendants be given an opportunity to prove juror bias. The district court proposed individually questioning each juror, but defendants objected to that approach as potentially prejudicial. District court discharged its investigatory duty by interviewing the foreperson to affirm that the jury could proceed fairly, and by involving defense counsel in every step of the investigation. Furthermore, the district court did not abuse its discretion in denying defendant's motion for mistrial based on an impartial jury. The circumstances did not amount to an "extreme

situation” to warrant a presumption of prejudice, and defendants did not show actual bias to warrant a mistrial. [Go back](#)

United States v. Goldy 24-5544

In a case involving allegations of honest services wire fraud and federal program bribery, the government needed to prove defendant committed an “official act” in exchange for something of value. Defendant, a Kentucky prosecutor, sought to testify in his defense about Kentucky’s criminal justice system to refute the “official act” element. Because the definition of “official act” is a legal question, it was improper for defendant to testify to what he thought an official act meant under Kentucky law. It was for the jury to decide whether defendant agreed to perform an “official act” as defined by the court. Accordingly, the district court did not deny defendant the right to present a complete defense by excluding testimony involving his interpretation of Kentucky law and Kentucky’s judicial process. [Go back](#)

United States v. Florence 24-6152

Defendant’s Fifth and Sixth Amendment rights were not violated when district court determined the prior conviction subjected defendant to statutory mandatory-minimum sentence under 18 U.S.C. § 2252A(b)(2), as the defendant stipulated to the fact of his prior conviction. District courts may find the bare fact of a prior conviction when the prior conviction is a sentencing factor, not an element which must be put before a jury. Because defendant stipulated to the fact of his prior conviction, and the district court “had to look no further than the table of contents of the U.S. Code to determine” if defendant’s prior was subject to the mandatory minimum, the prior conviction did not need to be found by a jury. [Go back](#)

United States v. Hawkins, et al. 24-6002/25-5063

“The district court committed clear error by relying on [co-defendant’s] scant, uncorroborated, and out-of-court statement to estimate the bulk of the drugs attributable to Hawkins, resulting in a procedurally unreasonable sentence.” This is unlike cases where the co-conspirator gives testimony; but, even if he had here, that testimony would need to be corroborated by other evidence. While “testimonial evidence from a coconspirator may be sufficient to determine the amount of drugs for which another coconspirator should be held accountable,” the Court has not recognized “testimonial evidence in the form of statements merely relayed by the PSR, without any testimony whatsoever and with no other supporting evidence” as sufficient. Co-defendant’s statement here was not corroborated by physical evidence and was not sufficiently full of detail to constitute a strong indicia of reliability to support the sentence. [Go back](#)

United States v. Loines 24-4056

A sentencing enhancement based on a prior serious drug felony requires the following factual findings: (1) defendant served a term of imprisonment of more than 12 months on prior drug conviction; and (2) was his release from imprisonment within 15 years of the commencement of the instant case. Defendant challenged that a jury must resolve these factual questions to impose the sentencing enhancement. The Court explained under prior precedent that refusal to send a sentencing factor to a jury does not require automatic reversal of the sentence. Conviction upheld because the government proved beyond a reasonable doubt that the error would not have changed the outcome of this case. The PSR showed defendant served a prior sentence of 3 years and he was released within the 15-year widow. And the defendant admitted to these facts. After the AUSA informed the defendant these facts would trigger an enhanced sentence, the defendant continued to enter a guilty plea. Based on these facts, it was harmless error to impose the enhancement. [Go back](#)

United States v. Rolon 24-1735

The district court sentenced defendant based on an increased offense level finding the defendant was “under indictment” for a state court offense at the time he committed a federal gun crime, and thus a “prohibited person” under U.S.S.G. § 2K2.1(a)(4)(B). Defendant pleaded guilty in state court but was participating in a diversion program, leaving the original charge in place. Defendant argued that the increase in offense level was error because his participation in

the state's diversion program rendered him no longer "under indictment." Because defendant's participation in the diversion program could be revoked at anytime, and a sentence imposed, the Court found the case remained pending and thus the defendant was "under indictment" for purposes of liability under 18 U.S.C. § 922(n). The district court was therefore correct in finding the defendant "under indictment" even though no conviction had been entered in the state felony case. [Go back](#)

United States v. Clark 24-4068

After defendant's guilty plea was entered, his attorney filed a notice of withdraw having resigned from the practice of law, which included an order from the Supreme Court of Ohio accepting the attorney's resignation with "disciplinary action pending." New counsel filed the motion to withdraw defendant's guilty plea and requested a hearing, citing ineffective assistance of counsel. While not entitled to an evidentiary hearing as a matter of right, defendant may be entitled to an evidentiary hearing "if there are factual matters at issue which bear directly on the controversy." The district court denied defendant's motion to withdraw guilty plea without an evidentiary hearing. Here, denial of motion without a hearing was error. The Court found it was unclear from the record that the defendant was prepared to enter the plea; it was unclear whether the defendant reviewed the plea form, noting one page in the plea agreement was not initialed by the defendant; and the execution of the plea was "rushed and uninformed." Additionally, the later resignation due to a pending disciplinary matter related to his problems with representation of clients supported the defendant's claim of ineffectiveness. [Go back](#)

United States v. Simpson 25-5729

The Court held the district court did not err in denying the acceptance of responsibility reduction. To receive this reduction under U.S.S.G. § 3E1.1(a), the defendant must "timely" give notice of his intent to enter a guilty plea, which permits the government to avoid having to prepare for trial and permits the government and the court to allocate resources efficiently. Additionally, the defendant must "clearly demonstrate[] acceptance of responsibility." Defendant pleaded guilty during jury selection and objected to the PSR for not including a reduction for acceptance of responsibility. Despite the guilty plea, the district court found defendant did not demonstrate acceptance of responsibility. The court found that the defendant pointed a loaded weapon at the victim and did not believe defendant's assertion that the incident was an accident. Based on the late plea and defendant's repeated minimization of his role, the district's decision that defendant was not entitled to a two-level reduction was not clearly erroneous. [Go back](#)

United States v. Buddi 24-5953

Buddi was treated as a SORNA Tier II sex offender based on her conviction under Florida state law for lewd and lascivious battery when she was sentenced for failing to update her sex offender registration. Buddi objected to this classification, arguing that she should be treated as a Tier I sex offender since Florida's lewd and lascivious battery does not have a comparable mens rea requirement to 18 U.S.C. § 2422(b). Since SORNA classifies offenders under Tiers II and III primarily by reference to specific federal sex crimes, the Court employs the categorical approach to evaluate whether a state sex crime triggers the heightened tier status. Under the categorical approach, Florida's lewd and lascivious battery is defined as a strict liability crime, such that a person need not know the minor's age to be guilty of the crime. § 2422(b), on the other hand, includes "knowingly" as a mens rea. While the scope of this mens rea application was disputed, the Court determined that § 2422(b) requires knowledge of a victim's minor status and, as a result, that Florida lewd and lascivious battery is not a comparable offense to § 2422(b) under the categorical approach. Buddi was therefore a Tier 1 sex offender under SORNA. [Go back](#)

United States v. Guerrero 24-5859

A person held in custody and subject to interrogation must be informed of two aspects of their right to counsel: that they have a right to consult counsel *prior* to questioning and *during* any questioning. While the "during" phrase has been omitted from warnings and upheld by Supreme Court and Court precedent, it has been supported by the emphasis of the right's *starting* point. Guerrero, on the other hand, received the warning that he had a right to an attorney *during*

questioning, but not before. The Court noted that the “prior to” or “before” wording is critical to an individual’s understanding of when their right to counsel is triggered and Guerrero did not receive that. However, the inadequate *Miranda* warning was harmless error here when considering the entirety of evidence admitted against Guerrero at trial. Aside from his confession, there were 19 intercepted calls, 16 text messages, 14 videos, and six exhibits that supported his guilt. [Go back](#)

United States v. Woods 24-1988

Officers learned that Woods allegedly committed a domestic assault with a gun. They could not find him or the gun where the assault was said to have occurred, but they found him in his car. After detaining Woods and patting him down, a gun was still not found. At this point, officers had probable cause to believe the gun was in Woods’ car. Therefore, the district court’s denial of Woods’ motion to suppress the vehicle search was not error. [Go back](#)

United States v. Williams 25-3426

Williams argued that the supervised-release statute does not allow a district court to punish the conduct underlying a violation of supervised release. The Court noted that while a district court cannot punish an individual for the conduct underlying their violation, it can sanction them for the breach of trust associated with the violation—and when doing so, the district court may consider the seriousness of the violation. This is because a breach of trust does not concern retribution or punishment. Here, where the district court connected the breach of trust to permissible sentencing factors—deterrence and public safety—the consideration of the seriousness of the violation conduct was not erroneous. [Go back](#)

United States v. Mukhdomi 25-3442

The Mukhdomis argued that the district court imposed unreasonable and unconstitutional fines as part of their sentences. The government asked the Court to dismiss their appeal on the grounds that it was barred by their appellate waivers. While the Court agreed that the waivers barred the Mukhdomis’ procedural and substantive reasonableness challenges, the Court found the waivers did not pose a jurisdictional bar to review of their Eighth Amendment challenge to the fines on the merits. [Go Back](#)

United States v. Yousef 25-1426

The district court applied three sentencing enhancements to Yousef based on the conduct of his co-conspirators. The conduct was attributable to Yousef from conduct that occurred during the commission of robberies that were “within the scope of jointly undertaken criminal activity.” U.S.S.G. § 1B1.3(a)(1)(B)(i). In determining the scope of criminal activity that a defendant agreed to jointly undertake, the Court reviewed several factors (the *Donadeo* factors). After application of 5 of the 6 *Donadeo* factors, the Court affirmed the district court’s findings. [Go back](#)

United States v. Golobic 25-3173/3661

Federal Rule of Criminal Procedure 23(b)(3) allows a jury of 11 persons to return a verdict if the district court finds good cause to excuse a juror. The Court determined that the district court had good cause to excuse a juror in Golobic’s case. After a jury had deliberated for almost 5 days, a juror had become sick and went to the emergency room. He received abnormal test results that required further investigation. The juror was a doctor and admitted that further investigation could mean more tests and admission to the hospital (he was admitted). The district court considered the further delay until a concrete diagnosis and the burden on the other jurors and was within its discretion to proceed without the juror. [Go back](#)

United States v. Hostettler 24-3403

Prior to the Court’s decision in *United States v. Williams*, 113 F.4th 637 (6th Cir. 2024), the district court had granted Hostettler’s motion to dismiss his indictment, finding that the government had failed to carry its burden and 18 U.S.C. §

922(g)(1) was unconstitutional as applied to Hostettler. On appeal, the Court found that the district court's decision conflicted with *Williams*' analysis in three ways: (1) the burden lies with Hostettler instead of the government as to dangerousness; (2) the court must consider Hostettler's entire criminal history; (3) and Hostettler's status on supervised release could be a relevant consideration. Since the record before the Court excluded information about the unique circumstances of Hostettler's crimes, the Court determined the appropriate remedy was to remand with instructions to apply the proper legal standard and to provide Hostettler with an opportunity to show why the specific circumstances of his crimes do not prove his dangerousness. [Go back](#)

United States v. Curry 25-3108

Police were called to perform a welfare check on an individual passed out behind the wheel of a running vehicle. That individual was identified as Curry, and the interaction led to several drug trafficking and firearm charges. During trial the district court allowed the government to admit recordings of Curry's jail calls. The government argued the calls were relevant because they showed Curry's control of the vehicle as well as evidence of unexplained wealth. On appeal, Curry argued the calls were not relevant to his case and were prejudicial as they allowed the government to insinuate other illegal activity. The jail calls were made to the person whom the vehicle was registered to and discussed substantial amounts of money contained in the vehicle, as well as discussions regarding purchase of "the car." The Court determined the calls were relevant since Curry's control of the vehicle was a fact of consequence connecting him to the firearm and drugs found within it. And the probative value of the jail calls was not substantially outweighed by the risk of unfair prejudice where the government's introduction of the calls focused on showing Curry's control of the vehicle and any reference to large sums of money also supported his drug trafficking offense, not other criminal conduct. [Go back](#)

United States v. Bailey 25-5255

Following Bailey's trial but while his motion for a new trial was pending, amendments to the Court's pattern jury instructions took effect. Based on these amendments, Bailey argued that the district court improperly instructed the jury on the elements of conspiracy and failed to give an instruction regarding law enforcement officers' testimony. Since Bailey did not object to the instructions at trial, they were reviewed for plain error. The Court determined that the new pattern jury instruction for conspiracy made no substantive change and thus the district court had accurately stated the law when it gave the former instruction. As for the law enforcement officer testimony, Bailey did not request an instruction on the officers' credibility at trial and the pattern instruction, § 1.07B, was not adopted until after trial. Since the district court used language that adequately addressed witness credibility and tracked § 1.07, which applied at the time of trial, it was not plain error for the district court to fail to give a specific instruction, sua sponte, on the credibility of the officers. [Go back](#)