

CASE LAW UPDATES

FEDERAL CRIMINAL PRACTICE SEMINAR SPRING 2014
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Developments in the Fourth Circuit

- Prior Convictions at Sentencing
- Fourth, Fifth, Sixth Amendment
- Mens Rea
- Restitution

Prior Convictions at Sentencing:

ACCA & Career Offender Cases

Prior Convictions at Sentencing: Armed Career Criminal Act

United States v. Royal, 731 F.3d 333 (4th Cir. Oct. 1, 2013) – p. 18

United States v. Hemingway, 734 F.3d 323 (4th Cir. Oct. 31, 2013) – p. 18

United States v. McDowell, --- F.3d---, 2014 WL 960256(4th Cir. Mar. 11, 2014) – p. 18

Prior Convictions at Sentencing: Career Offender

United States v. Davis, 720 F.3d 215 (4th Cir. June 24, 2013)
– p. 23

United States v. Carthorne, 726 F.3d 503 (4th Cir. Aug. 13, 2013) – p. 23

Fourth, Fifth and Sixth Amendment Renaissance

Revitalizing Civil Liberties

Fourth, Fifth and Sixth Amendment Renaissance

United States v. Robertson, 736 F.3d 677 (4th Cir. Dec. 3, 2013) – p. 6

United States v. Hashime, 734 F.3d 278 (4th Cir. Oct. 29, 2013) – p. 9

United States v. Fisher, 711 F.3d 460 (4th Cir. Apr. 1, 2013) – p. 16

Mens Rea:

Slouching Toward Strict Liability

Mens Rea

United States v. Washington, 743 F.3d 938 (4th Cir. Feb. 28, 2014) – p. 4

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United States v. Bishop, 740 F.3d 927 (4th Cir. Jan. 28, 2014) – p. 5

Restitution Developments

Guidance on Pay Backs

Restitution Developments

United States v. Davis, 714 F.3d 809(4th Cir. May 1, 2013) – p. 19

United States v. Grant, 715 F.3d 552(4th Cir. May 9, 2013) – p. 19

United States v. Freeman, 741 F.3d 426(4th Cir. Jan. 17, 2014) – p. 19

Child Pornography Restitution

Paroline v. United States, --- S.Ct.---, 2014 WL 1612426 (decided Apr. 23, 2014, argued before Supreme Court Jan. 22, 2014)

- Issue: What, if any causal relationship or nexus between defendant's conduct and the victim's harm or damages must the government or the victim establish in order to recover restitution under 18 U.S.C. 2259?
- Held: Where it can be shown both that a defendant possessed a victim's images and that a victim has outstanding losses caused by the continuing traffic in her images, but where it is impossible to trace a particular amount of those losses to the individual defendant utilizing a more traditional causal inquiry, a court should order restitution in an amount that comports with the defendant's relative role in the causal process underlying the victim's general losses
- Note: This is consistent with *United States v. Burgess*, 684 F.3d 445 (4th Cir. 2012).