



PRACTICING IN THE FIFTH CIRCUIT

TIPS FOR NEW (OR RELATIVELY NEW) FIFTH CIRCUIT PRACTITIONERS

**LYLE CAYCE
CLERK OF COURT**

**BAFFC SEMINAR
November 4, 2025**



Topics

- What do (relatively) new Fifth Circuit practitioners need to know?
- Fifth Circuit Internal Processes – What happens when, and Why.
- How to find case-related information.
- Resources you should use (including our “Attorney Toolbox”).
- Practice Tips – Errors to avoid.

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



UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT


Honorable Jennifer W. Elrod, Chief Judge


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Latest Opinions/Orders

Current Vacancies

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Links to upcoming hearings are contained in the document listed below. Live audio links are active only during arguments and are paused between cases or during any technical issues. For those unable to listen live, we continue to post audio recordings after the proceeding, on the oral argument recordings page: [Oral Argument Recordings](#).

February 3 - 6 Oral Argument Links

Press Release - New Chief Judge

Attention CM/ECF Filers

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Live Streams

By Day

By Case

ABOUT THE COURT	ATTORNEY INFORMATION	CASE INFO & E-FILING	ORAL ARGUMENT INFORMATION	RULES & PROCEDURES	FORMS, FEES & GUIDES	OTHER LINKS
Court and Special Hearing Calendars						
Live Streams for Today						
Number ↑	Style		Nature	Time	Venue	
23-10735	USA v. Tammy Walden Thomas, Appellant.	Listen	Criminal (DCRIM)	9:00 AM	West Courtroom	
23-20354	USA v. Sha Kendrick Smith, Appellant.	Listen	Criminal (DCRIM)	9:00 AM	En Banc Courtroom	
23-20448	Petrobras America, Appellant-Appellee v. Samsung Heavy Industries Company.	Listen	RICO (Fed Q)	9:00 AM	En Banc Courtroom	
23-30424	Michael Holmes v. Corbett Reddoch, Et Al., Appellants.	Listen	Other Civil Rights	9:00 AM	East Courtroom	
23-30444	USA v. Terrell Moore, Appellant.	Listen	Criminal (DCRIM)	9:00 AM	West Courtroom	
23-50720	Rainbow Energy Marketing Corporation, Appellant v. DC Transco.	Listen	Other Contract Actions (Dvsty)	1:00 PM	En Banc Courtroom	
23-50928	Crystal Clear Special Utility District v. HK Baugh Ranch, Appellant.	Listen	Agricultural Acts (Fed Q)	9:00 AM	West Courtroom	
24-10084	Elio Cerkezi, Et Al., Appellants v. City of Arlington, Et Al.	Listen	Other Civil Rights	9:00 AM	En Banc Courtroom	
24-20007	Banco Mercantil De Norte, S.A., Et Al. v. Juan Jose Paramo, Appellant.	Listen	Other Statutory Actions (FedQ)	9:00 AM	East Courtroom	
24-40248	M.D., Et Al. v. Greg Abbott, Et Al., Appellants.	Listen	Other Civil Rights	4:30 PM	En Banc Courtroom	
Return to Calendars Home						

ABOUT THE COURT	ATTORNEY INFORMATION	CASE INFO & E-FILING	ORAL ARGUMENT INFORMATION	RULES & PROCEDURES	FORMS, FEES & GUIDES	OTHER LINKS
Court and Special Hearing Calendars						
Pending Hearings by Case						
Number ↑	Style	Date	Nature	Time	Venue	
19-70022	Rodney Reed, Appellant v. Bryan Goertz, Et Al. (30 MINUTES PER SIDE)	9/23/2024	Habeas Corpus - Death Penalty	10:30 AM	West Courtroom	
23-10661	Michael Ray Senn, Appellant v. Bobby Lumpkin.	9/3/2024	Habeas Corpus	1:00 PM	East Courtroom	
23-10735	USA v. Tammy Walden Thomas, Appellant.	8/5/2024	Criminal (DCRIM)	9:00 AM	West Courtroom	
23-10773	J.T., Appellant v. Uplift Education.	9/5/2024	Civil Rights	9:00 AM	West Courtroom	
23-10904	Munck Wilson Mandala, Appellant v. Mark Jordan, Et Al.	8/6/2024	RICO (Fed Q)	9:00 AM	En Banc Courtroom	
23-10911	Highland Capital Management, L.P. v. NexPoint Asset Management, L.P., Et Al., Appellants	8/6/2024	Bankruptcy	9:00 AM	East Courtroom	
23-11023	Steve Biggers, Appellant v. Ron Massingill.	9/5/2024	Other Civil Rights	9:00 AM	East Courtroom	
23-11065	Southwest Airlines Pilots Association, Appellant v. Southwest Airlines Company.	8/6/2024	Railway Labor Act (Fed Q)	9:00 AM	East Courtroom	
23-11084	Nathaniel King, Appellant v. DFW International Airport Board.	8/8/2024	Americans w/Disab Act-Empl	9:00 AM	East Courtroom	
23-11120	Placid Oil, Appellant v. Avalon Farms.	9/5/2024	Bankruptcy	9:00 AM	En Banc Courtroom	
23-11132	USA v. Ruel M. Hamilton, Appellant.	8/7/2024	Criminal (NCRIM)	9:00 AM	East Courtroom	
23-11208	Suzann Ruff, Appellant v. Destination Development Partners, Et Al.	9/4/2024	Bankruptcy	9:00 AM	East Courtroom	
23-11247	Fonda Wicks, Appellant v. Metropolitan Life Insurance Company.	8/6/2024	Employee Retirement (Fed Q)	9:00 AM	West Courtroom	
23-20140	Scott Sullivan, Et Al. v. Stewart Feldman, Et Al., Appellants. (30 MINUTES PER SIDE)	8/7/2024	Recovery/Enforcement (Dvsty)	9:00 AM	En Banc Courtroom	
23-20188	Michel Keck, Appellant-Appellee; Mathew Kidman Higbee, Et Al. v. Mix Creative Learning Center, Et Al.	8/6/2024	Copyright (Fed Q)	9:00 AM	En Banc Courtroom	
23-20354	USA v. Sha Kendrick Smith, Appellant.	8/5/2024	Criminal (DCRIM)	9:00 AM	En Banc Courtroom	
23-20435	Feanyichi E. Uvukansi, Appellant v. Bobby Lumpkin.	9/3/2024	Habeas Corpus	1:00 PM	West Courtroom	
23-20448	Petrobras America, Appellant-Appellee v. Samsung Heavy Industries Company.	8/5/2024	RICO (Fed Q)	9:00 AM	En Banc Courtroom	
23-20502	Kimaletha Wynn, Et Al., Appellants; Vincent Leday, Et Al., Appellants v. Harris County, Texas, Et Al.	8/7/2024	Other Civil Rights	9:00 AM	West Courtroom	
23-20513	USA v. Arturo Garza, Jr., Appellant.	9/4/2024	Criminal (DCRIM)	9:00 AM	East Courtroom	
23-20516	Great Lakes Dredge & Dock Company, Appellant v. Chris Magnus, Et Al.; American Petroleum Institute.	9/3/2024	Other Statutes	1:00 PM	East Courtroom	
23-20523	Zyla Life Sciences, Appellant-Appellee v. Wells Pharma of	8/5/2024	Other personal prop	9:00 AM	East Courtroom	



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MONDAY, MARCH 4, 2024 LSU SCHOOL OF LAW PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT	MONDAY, MARCH 4, 2024 LSU SCHOOL OF LAW PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT	MONDAY, MARCH 4, 2024 LSU SCHOOL OF LAW PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT	MONDAY, MARCH 4, 2024 LSU SCHOOL OF LAW PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT	MONDAY, MARCH 4, 2024 LSU SCHOOL OF LAW PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT
JEFFREY T. NOBLE BRANT LEVINE 43:04	CRIGHTON MAG CHRISTOPHER R. J. J 43:04		BRANDON KELLY BL LARRY ENGLISH 39:44	MEREDITH KAY CL JOSEPH EDWARD LE 40:40

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Items of Interest

Electronic Filing and Cybersecurity

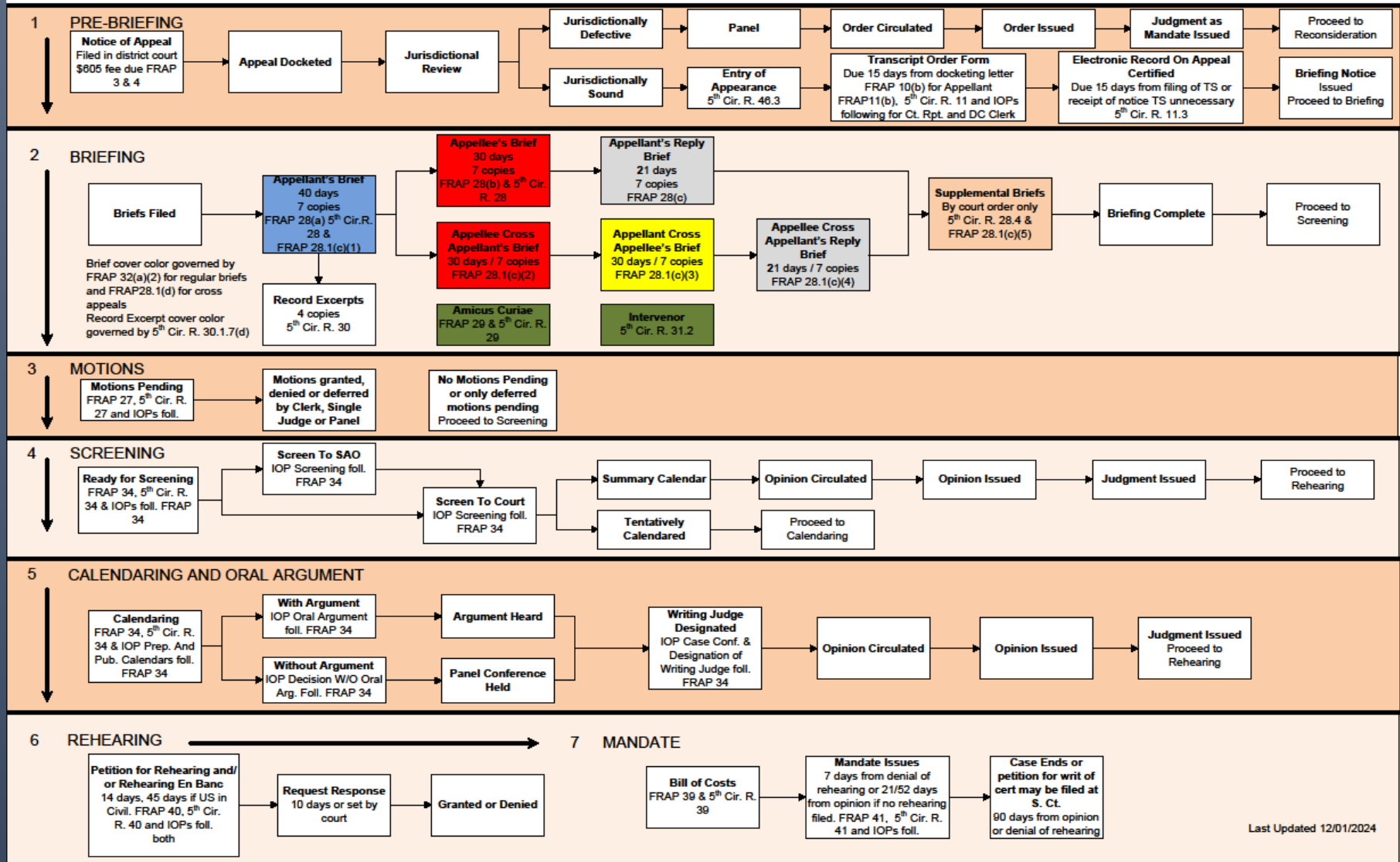
- **Implementation of Multifactor Authentication for CM/ECF:** Multifactor authentication (MFA) is now available for PACER and CM/ECF. PACER account users with filing and all other types of CM/ECF-level access are required to enroll in MFA and are encouraged to do so at their earliest convenience. MFA enrollment is optional for users with PACER-only access, but it is strongly recommended. Users with CM/ECF-level access who do not voluntarily enroll will be randomly selected to enroll starting in August. By the end of 2025, everyone with CM/ECF-level access must use MFA when logging in.
- **Updated PACER Password Standards:** As part of an ongoing effort to secure the PACER service and CM/ECF systems, the Administrative Office of the U.S. Courts (AO) will enforce updated PACER and CM/ECF password standards on August 25, 2025. Court users who use their JENIE accounts to access PACER or CM/ECF will not be affected. Users with PACER-only (search/view only) accounts (e.g., interns and externs), including PACER Administrative Accounts (PAAs), will be prompted to update their password upon login starting August 25 if they have not updated it as of May 11. However, PACER-only users can update their password now and are encouraged to do so. The new password must: 1. Be 14–45 characters in length. 2. Contain at least one lowercase letter, one uppercase letter, and one special character. 3. Not contain any part of your first name, last name, username, or email address. All PACER users must also update their password every 180 days.

Items of Interest – Key Resources for Attorneys

- ▶ Website: www.ca5.uscourts.gov (Access to OA livestreams, calendars, opinions, and so much more!)
 - ▶ [Practitioner Guide](#) (please review!)
 - ▶ [Fifth Circuit Life of the Appeal Flow Chart](#)
 - ▶ [Frequently Asked Questions \(FAQ\)](#)
 - ▶ [Brief Guidance and Sample Briefs](#)
 - ▶ [Guide to Filing Emergency Motions](#)
 - ▶ [Record Reference Guide \(Cite link\)](#)
 - ▶ [Case Management Teams Contact List](#)
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 - ▶ Help Desk: 877.232-1038 or Webmaster@ca5.uscourts.gov
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THE LIFE OF AN APPEAL IN THE FIFTH CIRCUIT COURT OF APPEALS*

* Does not encompass Mandamus, Original Proceedings or Petitions for Review



Last Updated 12/01/2024

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<u>CASE MANAGER</u>	<u>CASE ADMINISTRATOR TEAM LEADER</u>	<u>CASE MANAGER</u>
Christina Gardner (CAG) 310-7684	Angelique Tardie (ABT) 310-7715	Shea Pertuit VanVoorhis (SEP) 310-7666
Case Management Nos. Ending in 0 and 9: are routed as identified above based on the second to last number. Nos. Ending in 1, & 2: Casey Sullivan (CAS): 310-7642 Nos. Ending in 3, & 4 and Death Penalty: Mary Frances Yeager (MFY): 310-7686 Nos. Ending in 5, & 6: Lisa Ferrara (LEF): 310-7675 No. ending in 7, & 8: Melissa Courseault (MBC): 310-7701 Generalist Work Only: Nos Ending in Even#s: Renee McDonough (RSM): 310-7673 Nos Ending in Odd#s: Jasmine Forman (JF): 504-310-7649	Nos. Ending in 0, & 1: Melissa Mattingly (MRM): 310-7719 Nos. Ending in 2, & 3: Christy Combel (CMC): 310-7651 Nos. Ending in 4, & 5: Rebecca Leto (RLL): 310-7703 Nos. Ending in 6, & 7: Dantrell Johnson (DLJ): 310-7689 Nos. Ending in 8, & 9: Roeshawn Johnson (RAJ) 310-7998 Generalist Work Only: Nos Ending in Even#s: Amanda Duroncelet (AMD): 310-7636 Nos Ending in Odd#s: Rebecca Andry (RCA): 310-7638 Generalists: Sean Hannan (SRH): 310-7702	Nos. Ending in 0, & 1: Melissa Mattingly (MRM): 310-7719 Nos. Ending in 2, & 3: Christy Combel (CMC): 310-7651 Nos. Ending in 4, & 5: Rebecca Leto (RLL): 310-7703 Nos. Ending in 6, & 7: Dantrell Johnson (DLJ): 310-7689 Nos. Ending in 8, & 9: Roeshawn Johnson (RAJ) 310-7998 Generalist Work Only: Nos Ending in Even#s: Amanda Duroncelet (AMD): 310-7636 Nos Ending in Odd#s: Rebecca Andry (RCA): 310-7638 Generalists: Sean Hannan (SRH): 310-7702 Record Clerk: Dawn LeBlanc (DDL): 310-7717
DEATH PENALTY 70000 Mary Frances Yeager (MFY): 310-7686; 1 st Backup: Casey Sullivan (CAS) 310-7642; 2 nd Backup: Dantrell Johnson (DLJ): 310-7689		
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24-50974	USA v. Currier	Original	Feb 14, 2025, 11:27:08 AM
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24-51016	USA v. Aguilar-Martinez	Original	Feb 17, 2025, 8:11:49 AM
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**U.S. District Court
SOUTHERN DISTRICT OF TEXAS (McAllen)
CRIMINAL DOCKET FOR CASE #: 7:22-cr-01627-1
Internal Use Only**

Case title: USA v. Luna-Soto
Magistrate judge case number: 7:22-mj-01796
Date Filed: 10/05/2022
Date Terminated: 01/17/2024

Assigned to: Judge Micaela Alvarez

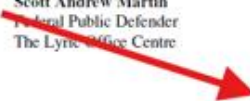
Defendant (1)

Andro Sergio Luna-Soto
TERMINATED: 01/17/2024

represented by **Juan Jose Becerra**
Federal Public Defender
1701 W Hwy 83
Ste 405
McAllen, TX 78501
956-630-2995
Fax: 956-631-8647
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or Community
Defender Appointment*

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Scott Andrew Martin
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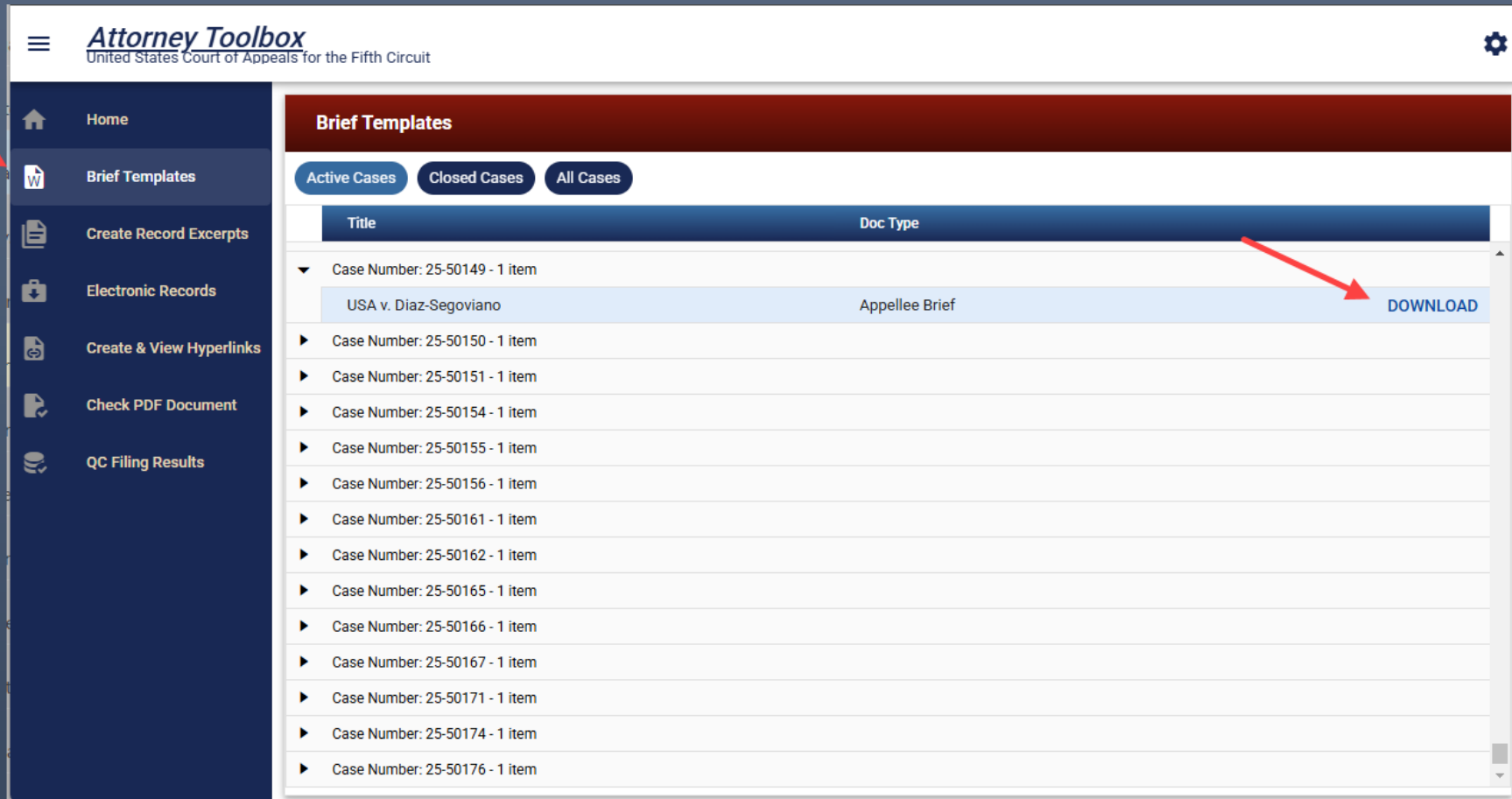


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USA v. Diaz-Segoviano	Appellee Brief
▶ Case Number: 25-50150 - 1 item	
▶ Case Number: 25-50151 - 1 item	
▶ Case Number: 25-50154 - 1 item	
▶ Case Number: 25-50155 - 1 item	
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CERTIFICATE OF INTERESTED PERSONS

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CERTIFICATE OF COMPLIANCE

No. 25-50149

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States of America,

Plaintiff - Appellee

v.

Juan Martin Diaz-Segoviano,

Defendant - Appellant

On Appeal
United States District Court for
the Southern District of Texas
4:24-cr-00123

BRIEF OF APPELLEE UNIT

SUBJECT

JURISDICTIONAL STATEMENT

Type here a Jurisdictional Statement as required by FED. R. APP. P. 28(a)(4)(A) through (D)

STATEMENT OF THE ISSUES

Type here a Statement of Issues presented for review as required by FED. R. APP. P. 28(a)(5).

STATEMENT OF THE CASE

Type here a Statement of the Case as required by FED. R. APP. P. 28(a)(6).

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of 5th CIR Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Appellees:	Counsel for Appellees:
United States of America	Carmen Mitchell of U.S. Attorney's Office Houston, TX

Appellants:	Counsel for Appellants:
Sixto Gonzalez	Marjorie Meyers of Federal Public Defender's Office Houston, TX
Sixto Gonzalez	Scott Martin of Federal Public Defender's Office Houston, TX
Sixto Gonzalez	Evan Hounz of Federal Public Defender's Office Houston, TX

Other Interested Parties:	Counsel for Interested Parties:
Type Here	Type Here

S/Scott Andrew Martin
Attorney of record for Type Here

A Certificate of Interested Persons is required by 5th CIR. R. 28.2.1.

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OF THE ARGUMENT

as required by FED. R. APP. P. 28(a)(7).

ARGUMENT

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S/Scott Andrew Martin

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24-50930	USA v. Jackson	CREATE	Mar 24, 2025
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25-50011	USA v. Menchaca-Segura	CREATE	Mar 24, 2025

Select the Appeal Requiring Record Excerpts

1. Verify Pre-Selected Documents.

2. Add Optional Content.

3. Finalize and Download.

Attorney Toolbox
United States Court of Appeals for the Fifth Circuit

Home
Brief Templates
Create Record Excerpts
Electronic Records
Create & View Hyperlinks
Check PDF Document

Create Record Excerpts for 25-50011

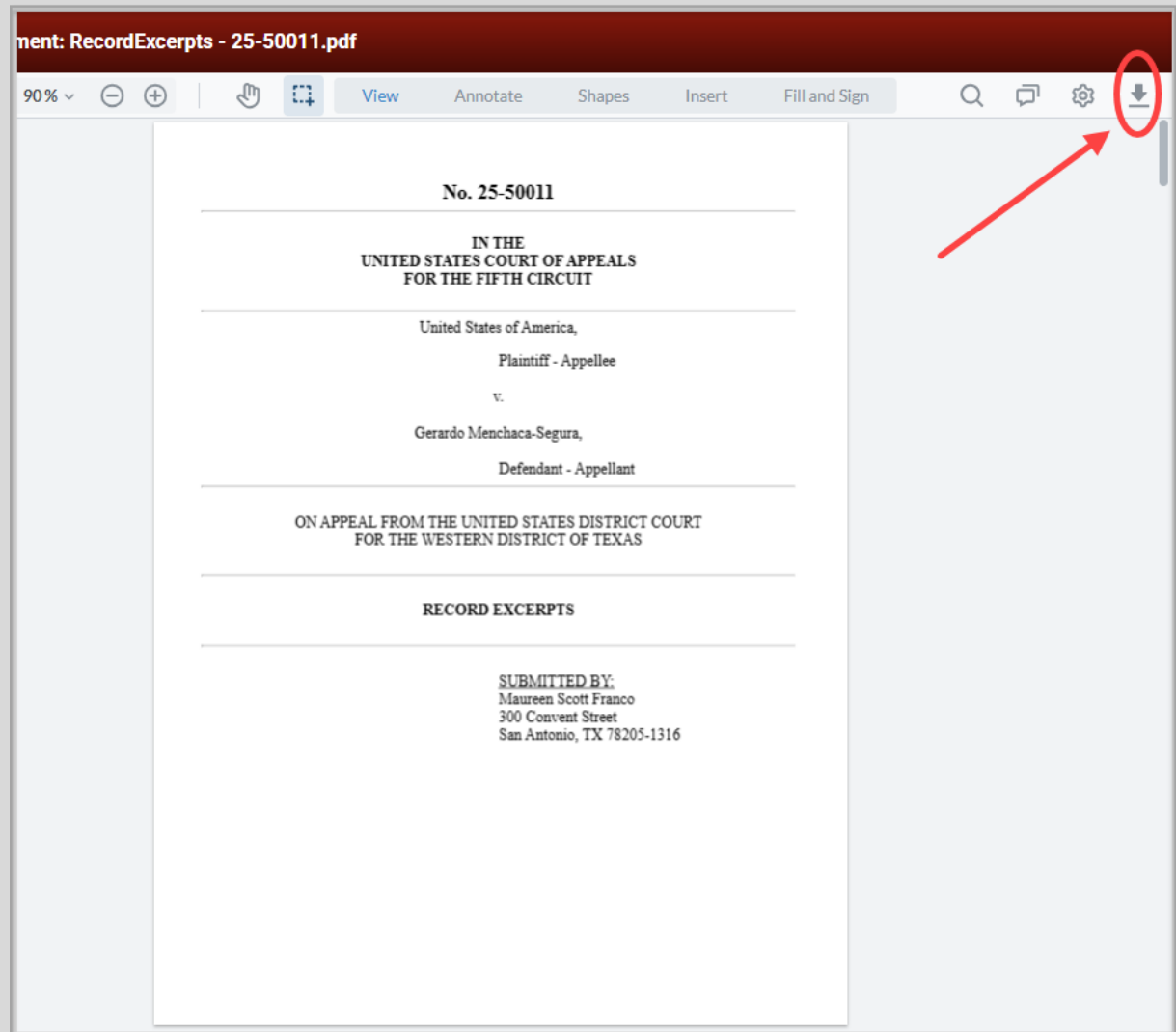
DISPLAY INSTRUCTIONS

1 Verify Required Documents 2 Select Optional Documents 3 Finalize and Download

Document	Doc.	Pages	Selected	Action
Category: Docket Sheet - 2 items				
DOCKET SHEET - 2:20-CR-890-1	-	233 - 244	<input checked="" type="checkbox"/>	REMOVE
DOCKET SHEET - 2:20-CR-890-1	-	1 - 10	<input checked="" type="checkbox"/>	REMOVE
Category: Indictment - 1 item				
INDICTMENT	1	245	<input checked="" type="checkbox"/>	REMOVE
Category: Judgment/Order/Opinion - 17 items				
PROPOSED ORDER	3	13	<input checked="" type="checkbox"/>	REMOVE
PROPOSED ORDER	4	16	<input type="checkbox"/>	ADD
ORDER ON MOTION FOR ISSUANCE OF	5	17	<input type="checkbox"/>	ADD
ORDER ON MOTION TO SEAL	6	18	<input type="checkbox"/>	ADD
ORDER ON MOTION TO UNSEAL CASE	9	21	<input type="checkbox"/>	ADD
ORDER APPOINTING PUBLIC DEFENSE	10	22	<input type="checkbox"/>	ADD
BRADY ORDER	11	23	<input type="checkbox"/>	ADD
SCHEDULING ORDER/WAIVER	13	24 - 27	<input type="checkbox"/>	ADD

PREVIOUS NEXT

When review
is complete,
download
and save for
filing.



No. 25-50011

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States of America,

Plaintiff - Appellee

v.

Gerardo Menchaca-Segura,

Defendant - Appellant

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

RECORD EXCERPTS

SUBMITTED BY:

Maureen Scott Franco
300 Convent Street
San Antonio, TX 78205-1316

The PDF
complies
with Local
Rules.

PDF includes all
required sections,
such as the Table of
Contents

Table of Contents

Document	Record Citation	Tab
Docket Sheet - 2:20-CR-890-1	ROA.233-244	Tab 1
Docket Sheet - 2:20-CR-890-1	ROA.1-10	Tab 2
Notice of Appeal - Judgment and Sentence	ROA.103-104	Tab 3
Clerk's Notice of Filing of an Appeal	ROA.105	Tab 4
notice of appeal	ROA.106-107	Tab 5
Indictment	ROA.245	Tab 6
Proposed Order	ROA.13	Tab 7

TAB 1

PDF even inserts a numbered Tab page between sections (required if you are later instructed to submit Paper excerpts).

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA)

v.)

Gerardo Menchaca-Segura)

EP-24-CR-02159-DB

NOTICE OF APPEAL

Comes now, GERARDO MENCHACA-SEGURA, by and through his undersigned attorney, and hereby gives notice of appeal to the United States Court of Appeals for the Fifth Circuit from the Judgment in the Criminal Case and the Sentence entered on December 19, 2024.

Respectfully submitted,

MAUREEN SCOTT FRANCO
Federal Public Defender

/S/

REGINALDO TREJO JR.
Supervisory Assistant Federal Public
Defender
Western District of Texas
Richard C. White Federal Building
700 E. San Antonio Street, Suite D-401
El Paso, Texas 79901

Attorney for Defendant

Excerpts include the
Proper EROA
Pagination



25-50011.45

Certificate of Service

I certify that on March 11, 2025, the foregoing document was served, via the Court's CM/ECF Document Filing System, upon all counsel of record.

S/Maureen Scott Franco

Maureen Scott Franco

Program
includes a
Certificate of
Service with the
date you
provide.

Quality Control (QC) Scan To Avoid Rejected filings

A QC program scans briefs at filing to ensure compliance with FRAP and Local Rules. Toolbox permits you to use the same program to scan a draft brief **before** filing.

Each scan generates a pop-up message showing “Critical” and “Minor” errors. We do not reject a pleading for Minor errors.

Attorneys can file the brief without correcting errors, but:

When the scan finds critical errors, we probably will later reject it and require the attorney to file a corrected copy.

A deputy clerk reviews the QC results and decides whether the brief should be rejected. There is no automatic rejection.

How to Perform a QC Check in of a draft pleading using the Toolbox

The screenshot displays the 'Attorney Toolbox' interface for the United States Court of Appeals for the Fifth Circuit. A dark blue sidebar on the left contains navigation links: Home, Brief Templates, Create Record Excerpts, Electronic Records, Create & View Hyperlinks, and Check PDF Document. The 'Check PDF Document' link is highlighted with a red arrow. The main content area has a dark red header 'Upload PDF to Check for Compliance With Rules'. Below this, a red instruction reads 'Select the document type to test for compliance with rules.' Three buttons are shown: 'Appellants Brief' (highlighted with a red arrow), 'Appellees Brief', and 'Reply Brief'. Another red instruction states 'Enter the case number for testing or leave blank for the system to automatically retrieve it from the document.' Below this is a text input field with '25-40036' and a 'RESET' button. A final red instruction says 'Upload the PDF you wish to process by either pressing the Browse button below or dragging it from your computer into the box captioned "Or drop files here."' Below this is a 'BROWSE...' button and a large box labeled 'Or drop files here', with a red arrow pointing to the 'BROWSE...' button.

Attorney Toolbox
United States Court of Appeals for the Fifth Circuit

Home
Brief Templates
Create Record Excerpts
Electronic Records
Create & View Hyperlinks
Check PDF Document

Upload PDF to Check for Compliance With Rules

Select the document type to test for compliance with rules.

Appellants Brief Appellees Brief Reply Brief

Enter the case number for testing or leave blank for the system to automatically retrieve it from the document.

Enter appellate case number
25-40036 RESET

Upload the PDF you wish to process by either pressing the Browse button below or dragging it from your computer into the box captioned "Or drop files here."

BROWSE... Or drop files here

The QC scan results are displayed in a pop-up message.

If the issue is on a particular page, we provide a blue hyperlink so attorneys can easily see possible issue.

Attorney Toolbox
United States Court of Appeals for the Fifth Circuit

Home

Brief Templates

Create Record Excerpts

Electronic Records

Create & View Hyperlinks

Check PDF Document

Deficiency Check Results

A computer program scanning this brief for compliance with FRAP and local rule requirements has identified critical issues that might require rejection of the brief. Those issues are listed below, with any minor deficiency we found. Briefs will not be rejected for minor errors.

You are not required to correct the brief before filing. If you decide to docket without correction, simply click [Done] in the lower right corner of this page.

However, to avoid possible rejection and having to file a corrected document later, please consider addressing the critical deficiencies and uploading a corrected brief now.

Three-day extension. If you are filing on the deadline and need additional time to make corrections, we will give you an automatic three working day extension, unless your case has a special briefing requirement. To determine if this extension is available in your case, click on the 'File Extension' button displayed at the bottom of the screen and docket the extension. If the automatic extension is not available, you will be returned to docketing.

Note: The program may mistakenly report a deficiency when none exists, such as when it does not find a close or identical match for required contents or sections, or when graphics, text or characters confuse the engine. Please help us improve this program by letting us know if the program incorrectly identifies a deficiency in your brief by emailing us at Margaret_Dufour@ca5.uscourts.gov.

1. Critical deficiencies found that normally result in rejected brief:

- The **Appeal Number** on the title page is incorrect. The correct case number is 25-40036. See FED. R. APP. P. 32(a)(2)(A). [\(Show Details\)](#)
- The brief exceeds the word count limitation and/or the page limitations. See FED. R. APP. P. 32(a)(7). You must reduce the size of the brief or electronically file a motion for leave to exceed the word count limitation and/or the page limitations.
- The program is unable to determine if the **Certificate of Compliance** complies with FED. R. APP. P. 32(g). The certificate must state the number of words or the number of lines of monospaced type that are included in the argument. If either of these are included, please disregard this notice.
- Record References: Every assertion in briefs regarding matters in the record must be supported by a reference to the page number of the record, using the record citation form as directed by the Clerk of Court. This pleading cites to pages that do not exist in the record or the citations do not match the required format. The proper format for citations to a single record appeal is "ROA.page number. (For example, ROA.123.) For multi record appeals, the format is ROA.case number page number. (For example ROA.18-20668.123.) Note the hyphen is required when you cite the case number. Finally, "id" is not permitted when citing to the record on appeal. See FED. R. APP. P. 28(a)(8)(A) and 5th CIR. R. 28.2.2. See [Form 1](#).

The record citations must be in the correct form or the brief will be rejected.

- PDF page 2: contains an invalid citation, roa.182-184; 188. [\(Show Details\)](#)

2. Minor deficiencies we call to your attention:

- There may be a problem with the signature following the Certificate of Service required by FED. R. APP. P. 25(d)(1)(B). The signature is either missing or does not match the name of the attorney whose credentials were used for log-in. The filing attorney's name should be typed on the line where the attorney would normally sign, preceded by an "s". An image of the signature is not allowed. Based upon a comparison of the log-in credentials and information in court records, the expected signature is: s/Demetrius Tarver.

Clicking on the blue link “**Show Details**” displays the error in the pleading.

Here, the critical error was an incorrect case number.

The correct number was 25-40036.

In the
United States Court of Appeals
for the Fifth Circuit

No. 25-40035

UNITED STATES OF AMERICA,
Plaintiff - Appellee,

v.

DEMARIO D. HENDERSON,
Defendant - Appellant

Appeal from the United States District Court
For the Western District of Louisiana
USDC No. 5:24-CR-19-1

ORIGINAL BRIEF FOR THE APPELLANT
DEMARIO D. HENDERSON

The scan found two other critical errors but did not include hyperlinks because the nature of the errors could not be explained by a link to a particular page.

- The brief exceeds the word count limitation and/or the page limitations. See FED. R. APP. P. 32(a)(7)). You must reduce the size of the brief or electronically file a motion for leave to exceed the word count limitation and/or the page limitations.
- The program is unable to determine if the **Certificate of Compliance** complies with FED. R. APP. P. 32(g). The certificate must state the number of words or the number of lines of monospaced type that are included in the argument. If either of these are included, please disregard this notice.

The last critical error involved an incorrect ROA cite -- using a semicolon instead of a comma.

The format requires a comma between consecutive and non-consecutive pages cited.

This error seems trivial, but it would prevent our hyperlinking program from accurately linking to the cited page.

STATEMENT OF THE CASE

The appellant Demario D. Henderson was charged below with one count of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). ROA.8. This case arose when Henderson stole a firearm from a convenience store clerk on July 22, 2023. ROA.167. At the time Henderson possessed the stolen firearm, he had numerous prior felony convictions for aggravated criminal damage to property, possession of a firearm by a convicted felon, possession or introduction of contraband into a penal institution, and resisting a police officer with force or violence. ROA.182-184; 188.

The minor deficiency identifies a possible error with the signature on the Certificate of Service.

2. Minor deficiencies we call to your attention:

- There may be a problem with the signature following the Certificate of Service required by FED. R. APP. P. 25(d)(1)(B). The signature is either missing or does not match the name of the attorney whose credentials were used for log-in. The filing attorney's name should be typed on the line where the attorney would normally sign, preceded by an "s/". An image of the signature is not allowed. Based upon a comparison of the log-in credentials and information in court records, the expected signature is: s/Demetrius Tarver.

About the QC Results...

At docketing, if you are filing on the last day, we offer a three-day automatic extension to encourage corrections.
(Note: This is **not available for expedited appeals.**)


We regularly contact attorneys who had trouble filing documents and ask for feedback on how to improve the QC program or process.

We now let you create and use hyperlinks in briefs


Select “Create and View Hyperlinks” from the Toolbox menu.



Select a search engine if you hyperlinks to legal authority. Westlaw, Lexis, and several free engines are supported.



“Drag and drop” a PDF copy of a brief (your draft brief or an opponent’s brief from PACER) into the Toolbox.



The program creates the hyperlinks. View the links or save the document to your computer.

The hyperlink program is the same one used by judges and court staff. You will see what they see.

Select a Search Engine, then “Drag and Drop” a PDF Copy of a Pleading into the Toolbox.

The screenshot displays the Attorney Toolbox website interface. On the left is a dark blue sidebar with navigation links: Home, Brief Templates, Create Record Excerpts, Electronic Records, Create & View Hyperlinks, and Check PDF Document. The main content area has a red header titled "Upload PDF to Check ROA Citations". Below this header, a text prompt asks the user to select a search engine, with buttons for Westlaw Next, Lexis, Google Scholar, Bing, Yahoo, and None. A second text prompt instructs the user to upload a PDF by either clicking a "BROWSE..." button or dragging a file into a designated box. A red arrow points from a Windows File Explorer window to this drop zone. The File Explorer window shows the "Downloads" folder containing a file named "25-40036.pdf" with a size of 147 KB, dated 3/7/2025 3:06 PM.

Attorney Toolbox
United States Court of Appeals for the Fifth Circuit

Upload PDF to Check ROA Citations

Select your desired search engine. Please note that for Westlaw and Lexis you must have an account, the system does not authenticate for you.

Westlaw Next Lexis Google Scholar Bing Yahoo **None**

Upload the PDF you wish to process by either pressing the Browse button below or dragging it from your computer into the box captioned "Or drop files here."

BROWSE... Or drop files here

PDF + Copy

File Home Share View

Navigation pane Preview pane Details pane

Extra large icons Large icons Medium icons Small icons List Content Tiles Layout

Group by Add columns Size all columns to fit Sort by Current view

This PC > Downloads

Name	Date modified	Type	Size
Last month (1)			
25-40036.pdf	3/7/2025 3:06 PM	Adobe Acr...	147 KB

ROA Hyperlinks in the document display that page of the record

box
FORUMS for the Fifth Circuit

View Document: 25-40036_preview.pdf

100% View Annotate Shapes Insert Fill and Sign

ARGUMENT

II. FORECLOSED - 18 U.S.C. § 922(g)(1) *facially* violates the Second Amendment because firearm possession is protected by the plain text of the Amendment, and the government cannot show a historical tradition of categorically disarming felons

A. Standard of review

Henderson challenged the constitutionality of § 922(g)(1) below.

ROA.14 Although Henderson pled guilty, the guilty plea was conditional, and the government agreed in the plea agreement that:

The United States also acknowledges that this is a conditional plea, pursuant to Federal Rule of Criminal Procedure 11(a)(2), and that the defendant reserves his right to appeal the Court's adverse ruling as to his Motion to Dismiss and, should such appeal be successful, the defendant shall be allowed to withdraw his guilty plea.

ROA.160. Nevertheless, a guilty plea does not bar a criminal defendant from later appealing his conviction on the ground that the statute of conviction violates the Constitution. *Class v. United States*, 583 U.S. 174 (2018). The Court reviews constitutional challenges to a statute *de novo*. *United States v. Clark*, 582 F.3d 607, 612 (5th Cir. 2009).

ROA: 25-40036.14

100% View Annotate Shapes Insert Fill and Sign

DEFENDANT'S MOTION TO DISMISS COUNT 1 OF THE INDICTMENT AND INCORPORATED MEMORANDUM IN SUPPORT

NOW INTO COURT comes the defendant, DEMARIO D. HENDERSON, through undersigned counsel, who respectfully moves this Court to dismiss the Indictment under Fed. R. Crim. P. 12(b)(1), 12(b)(2) and 12(b)(3)(B)(v).

I. The Basis of the Motion.

Count 1 of the indictment charges the defendant with being a felon in possession of a firearm on July 22, 2023. The defendant brings this motion to raise two separate grounds for dismissing the indictment in this case. His first claim is grounded in the plain text of the Second Amendment. It asserts that the statutory prohibition set forth in § 922(g)(1) violates the Second Amendment's guarantee-of "the right of the people to keep and bear Arms."

The defendant's second claim is grounded in Congress' lack of power to criminalize conduct relating to the possession of firearms which have already traveled in interstate commerce, but are no longer doing so. It asserts that § 922(g)(1)'s prohibition against felons possessing firearms is not supported by any enumerated power granted to Congress in the Constitution and

1 **25-40036.14**

Hyperlinks Caveats

An attorney can view hyperlinks while logged in to CM/ECF or save the document for later viewing.

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graph TD; A[An attorney can view hyperlinks while logged in to CM/ECF or save the document for later viewing.] --> B[ROA hyperlinks only work while an attorney is logged in to CM/ECF, because the links point to a copy of the EROA on our internal server.]; B --> C[When the document is saved, hyperlinks to legal authority work even when if the attorney is not logged into CM/ECF.]; C --> D[If an attorney selects a paid subscription legal research engine (either Westlaw or Lexis) then the attorney will be required to log-in to that service to access hyperlinks to legal authority.]; D --> E[We are willing to support legal research engines provided by state bar associations if sufficient interest is expressed.];
```

ROA hyperlinks only work while an attorney is logged in to CM/ECF, because the links point to a copy of the EROA on our internal server.

When the document is saved, hyperlinks to legal authority work even when if the attorney is not logged into CM/ECF.

If an attorney selects a paid subscription legal research engine (either Westlaw or Lexis) then the attorney will be required to log-in to that service to access hyperlinks to legal authority.

We are willing to support legal research engines provided by state bar associations if sufficient interest is expressed.

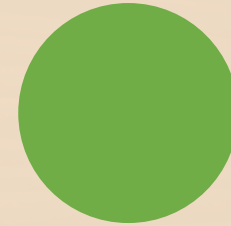
How can hyperlinks help you?



1) Drag a PDF of a draft brief into the program to verify your ROA cites point to the pages you intended.



2) Review an opponent's brief. Drag the PDF of the opposition brief into the program to view their ROA and legal citations.



3) Prepare for Oral Argument: Easily review legal and EROA citations in all pleadings.

Practice Tips

avoid common mistakes new (and seasoned) filers make!

Use the correct relief when filing a document. (Searchable list on court ECF Page). (AI will soon help here!)

Use our exact caption.

File a Transcript Order Form (it is required to be filed in both District Court and our court -- even if you don't need transcripts).

Cite to the record following Local Rule 28.2.2 format (ROA.123). Record cites are required.

Don't wait until the last minute to ask for extension. Provide justification and indicate whether the opposing counsel objects.

When requesting more than a 30-day extension, comply with local rule 31.4.3 (show more than ordinary good cause, demonstrate diligence and substantial need and explain IN DETAIL what special circumstances exist).

Avoid asking for extension for a reply or a rehearing petition. Rule 31.4.4 greatly disfavors extensions for reply briefs and Rule 35.4 says extensions for rehearing are only for "the most compelling reasons."

Other errors to avoid

Comply with 5th Cir. R. 27.3 when filing an emergency or notifying the court urgent action is needed. Call clerk's office and alert. File before 2:00 p.m. and certify the facts supporting emergency consideration of the motion are true and complete. If a motion does not meet the emergency criteria but requires action by a specific date, the party must still notify the clerk of court by telephone no later than 2:00 p.m. on the day of the filing and specify the required action date (5th Cir. R. 27.3.2).

Attach the proposed filing document to a motion requesting permission to file out of time.

Protect confidential filings when filing. Use the Event "ECF Motion and/or Document Filed Under Temporary Seal."

File record excerpts as a separate event, not with a brief.

Other Common errors you can avoid

- Not understanding that paper copies are no longer routinely required. If we need paper copies, we will set a deadline & issue a notice. There is no need to call to confirm this... trust the docket text and/or Letter)

Including only relevant portions of transcripts in record excerpts, not the entire transcript.

Update certificate of service when submitting proposed sufficient documents.

Protect confidential filings when filing. Use the Event “ECF Motion and/or Document Filed Under Temporary Seal.”

And even more common errors

Don't wait till the last minute to verify attorney status in bar or file an appearance form.

Don't refile a document incorrectly filed. Please call us first.

Don't use the extension request event for level 2 extensions. Attorneys and/or their staff ignore the warning that level 2 extensions require a motion.

Don't forget that a motion is required to extend time to file a rehearing for any length of time.

A most important Practice tip: Don't forget to renew bar membership

FINAL NOTICE: 5TH CIRCUIT BAR MEMBERSHIP RENEWAL DUE



CA05db_BarRenewals

Mon 3/10/2025 3:06 PM

You are receiving this notice because your membership is expiring. The fee to renew is \$50.00. Please be advised that failure to renew by the end of this month will invalidate your membership and require you to reapply for admission to the bar. The fee for readmission is \$249.00. If you are an attorney with a US Government agency, you are still required to renew your membership, however, you are exempt from the \$50.00 renewal fee.

Please visit us at <http://www.ca5.uscourts.gov/attorneys/membership/renewal-2> for additional information on renewing your membership with the 5th Circuit Bar.

Please note: you must renew through our website at the address above. Some attorneys renew membership in the Bar Association of the Fifth Federal Circuit, a private organization, and mistakenly think they have renewed their court bar membership.

Keep your email address up to date! If you miss the notice, you may have to reapply and pay an admission fee, not a renewal fee. (\$249.00 vs. \$50.00)

Attorneys often discover membership expired only while trying to file a document near a deadline!

Things You Need to Know: How Long Does an Appeal Take?


From Notice of Appeal to Filing of Last Brief is
4.9 Months



From Submission to screening panel or from
OA Hearing to Final Disposition is 1.6 Months



From Notice of Appeal to Final disposition is
8.3 months



The median time from Notice of Appeal to
final disposition in oral argument cases is 12.3
Months.

Other important things to know: How the court creates panels and assigns cases

The court uses a computer program to create administrative, screening, and OA panels each year.

The program randomly assign judges to panels and tries to avoid duplicating panel compositions for the same or the past few years.

When active judges are unavailable to serve on panels, the Chief Judge can approve other judges sitting by designation. (Normally 2-3 visiting judges each year).

Every case assignment to the court's panels (Administrative, Screening, or Oral Argument) is random.

A computer program randomly assigns cases to OA panels, subject to two exceptions. First, the program ensures that each panel serving in a given month receives approximately the same number of criminal and civil appeals; and second, that no case is assigned to a recused judge.

Screening and administrative panel assignments follow a rotation pattern established before the court year begins. Strictly following this rotation for assignment ensures both equitable work distribution and random assignment.

Inquiring minds want to know:

Does the composition of a panel matter as much as many believe?



What is the impact of randomly assigning matters to randomly created panels?



Panels decide an overwhelming percentage of appeals unanimously, based upon precedent and the factual record.



Conclusion: facts and precedent matter more than composition of a panel in the overwhelming majority of appeals.

Panel concurrences and dissents

5th CIRCUIT OPINION CONCURRENCE AND DISSENT RATES THREE JUDGE PANELS

For the 12 Month Period Ending June 30, 2025

Number of Panel Opinions	2369		% of Panel Opinions
Number of Panel Opinions without Dissent	2255		95.2%
Number of Panel Opinions with Separate Dissents or Concurrences	114		4.8%
Panel Opinions with a Dissenting Opinion		48	2.0%
Panel Opinions with Concurring and Dissenting in part Opinions		20	0.8%

Other Things You Need to Know: What is an Appellant's Chance of Reversal?



For the 12-month period ending March 31, 2025, the court reversed 7.7% of appeals, up from 6.8% during the prior 12-month period. This was the sixth lowest reversal rate for all appellate courts.

3.5% of criminal appeals
23.0% of non-prisoner
“U.S. Civil Cases”
14.7% of other civil cases



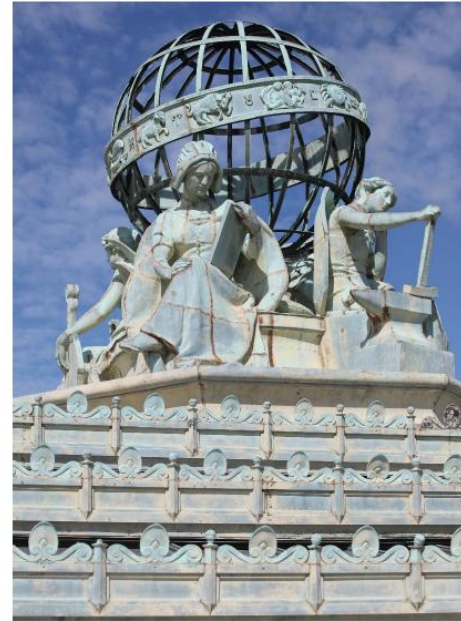
Detailed statistical information can be found in the Clerk's Annual Statistical Report on the Court's internet site, under the "About the Court" tab, in the "Court Statistics" section. The 2025 report was posted September 15, 2025.

Clerk's Annual Report

► Clerk's Annual Report, July 2024 to June 2025

► https://www.ca5.uscourts.gov/docs/default-source/default-document-library/clerk's-annual-report-july-2024-to-june-2025.pdf?sfvrsn=44b3ce2d_1

JUDICIAL
WORKLOAD
STATISTICS



*UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT*

CLERK'S ANNUAL REPORT
JULY 2024 - JUNE 2025

Some Interesting Facts About the Court's Workload

We are the second busiest appellate court in two categories. For total new appeals filed, we were second only to the 9th Cir. For filings adjusted for complexity, our active judges each handled 660 filings – second only to the 11th Cir where judges handled 678 adjusted filings.

We issued 2,381 written opinions last year. Each active judge wrote approximately 100 opinions.

The court's workload included emergency and expedited appeals. We handled 90 such appeals in 2025, compared to 133 the previous year.

Amicus filings significantly added to the workload. We received 380 amicus briefs in 2024, and 356 in 2025.

April 1, 2024, to March 31, 2025

	Cases Commenced	Procedural Terminations	Total Merits Terminations	Merits Terminations After Oral Hearing	Merits Terminations on Briefs	% Placed on the Oral Argument Calendar	% Reversed
Criminal	2,099	524	1,499	209	1,121	13.9	3.5
U.S. Prisoner Petitions	287	133	142	8	116	5.6	2.4
Other U.S. Civil	286	124	156	74	52	47.4	23.0
Private Prisoner Petitions	661	403	316	44	223	13.9	5.6
Other Private Civil	1,280	592	689	392	171	56.9	14.7
Bankruptcy	54	12	55	28	11	50.9	20.5
Administrative Agency	395	133	200	57	106	28.5	9.8
Original Proceedings*	383	147	231	0	226	0.0	0.0
Miscellaneous	34	4	29	0	26	0.0	0.0
TOTAL**	5,479	2,072	3,317	812	2,052	24.5	7.7
Texas	3,644	1,353	2,180	538	1009	24.7	5.8
Mississippi	292	98	179	60	61	33.5	8.4
Louisiana	765	341	527	178	184	33.8	9.3
Eastern Louisiana	287	165	218	80	56	36.7	10.1
Middle Louisiana	121	64	77	28	24	36.4	9.1
Western Louisiana	357	112	232	70	104	30.2	8.6
	Total Number of Published Opinions	Total Number of Unpublished Opinions	Number of Petitions for Panel Rehearing	Number of Panel Rehearings Granted	Number of Petitions for Rehearing En Banc	Number of Petitions for Rehearing En Banc Granted	
Fifth Circuit**	422	1,854	163	6	185	3	
Texas	275	1,340	123	5	126	3	
Mississippi	34	93	11	0	15	0	
Louisiana	79	298	29	1	44	0	
Eastern Louisiana	37	104	11	0	23	0	
Middle Louisiana	11	47	3	0	4	0	
Western Louisiana	31	147	15	1	17	0	

*Including successive habeas corpus and pro se mandamus petitions.

**The breakdowns by state will not equal the totals provided as agency appeals are excluded from state totals.

Mandate Holds and En Banc Polls

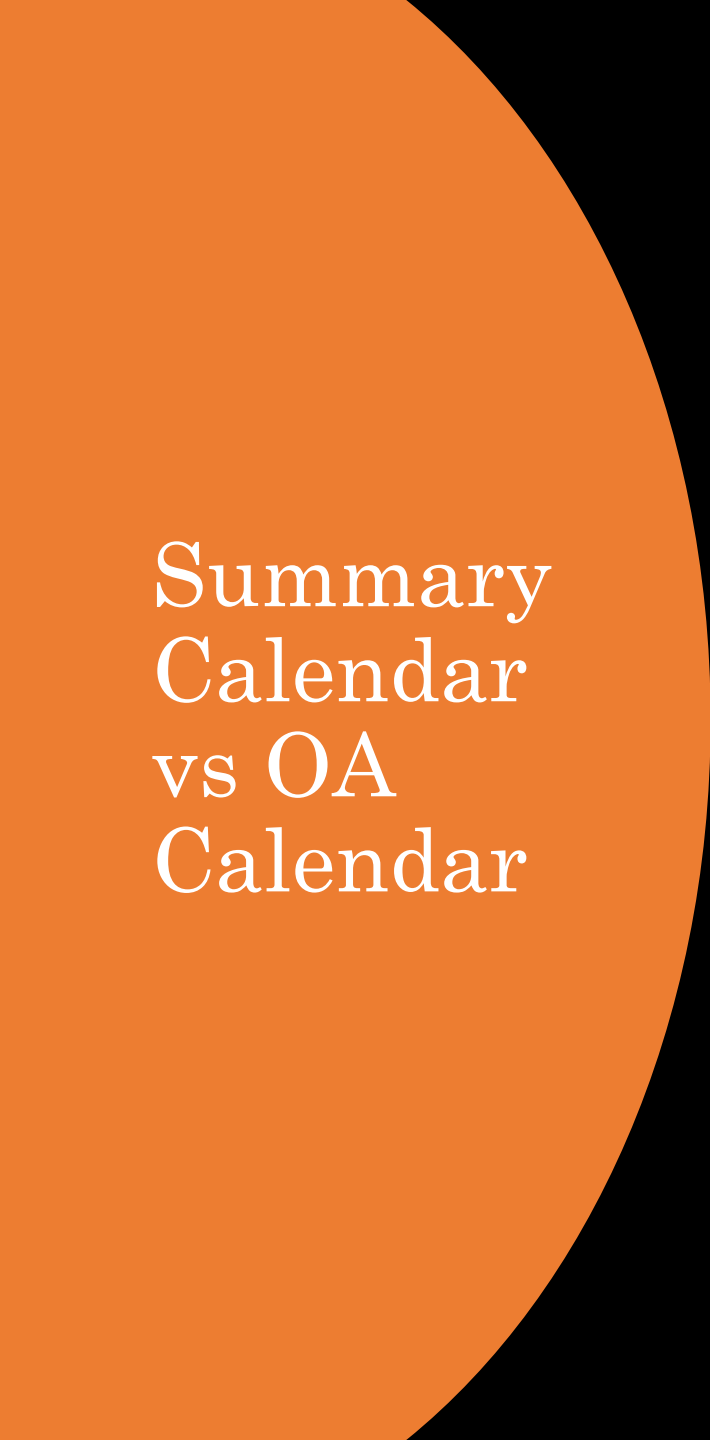
During court year 2023-2024, Judges held the mandate in 63 cases.

```
graph TD; A[During court year 2023-2024, Judges held the mandate in 63 cases.] --> B[A poll was requested in 20 appeals.]; B --> C[The court voted to grant en banc 6 times and denied en banc in 14 appeals.]; C --> D[Orders denying en banc after a poll list the votes of individual judges.]
```

A poll was requested in 20 appeals.

The court voted to grant en banc 6 times and denied en banc in 14 appeals.

Orders denying en banc after a poll list the votes of individual judges.

A large orange circle is positioned on the left side of the slide, partially overlapping the black background.

Summary Calendar vs OA Calendar

1397 opinions issued
on the summary
calendar (on briefs).

815 cases were
placed on the oral
argument calendar.

302 cases were
actually argued.

Opinion trivia

How often do panels withdraw and reissue opinions? And when they did so, had a judge held the mandate?

During calendar year 2024, panels withdrew and reissued 26 modified opinions.

In 13 of those instances, a judge on the court had held the mandate.



In the first six months of calendar year 2025, panels withdrew and reissued 9 opinions.

In 5 of those instances, a judge on the court had held the mandate.

Fifth Circuit Mediation Program

Office of Chief Counsel and Mediation. Cases considered: most counseled civil cases. Exceptions – Social Security, immigration, cases involving constitutional challenges to statutes or regulations.

Timing: we contact attorneys soon after the notice of appeal is filed and offer settlement assistance before briefing. Occasionally, attorneys want to await briefing before discussing settlement, but in those cases, mediators seek to resolve the appeal before assignment to a panel.

Methods: an initial telephone conference with attorneys. This can be followed either with further telephone diplomacy, or live mediation (either in-person or by Zoom).

Occasionally, a panel will refer a matter to us before or after argument. These typically are close cases where the panel thinks both sides have clear risk. However, sometimes the panel just thinks it would be beneficial for both sides to settle.

Settlement rate: historically, 30 to 35 percent of cases where we mediate.

How to get Appellate Experience? Ask to serve in our Pro Bono Program

Office of the General Counsel and Mediation maintains a list of attorneys willing to accept pro bono appointments. We encourage members of the bar to offer services.

Panels normally request counsel at either screening or oral argument, although a pro se may make an earlier request.

A pro bono coordinator contacts counsel on the list and determines who is available and submits recommendations for appointment. We average 2 to 5 such requests per year.

Ongoing AI experiments

1. Docketing: AI scans and identifies type of document uploaded to simplify attorney filing
2. Motion review: AI summarizes key issues in motions to speed review
3. AI summaries of pro se pleadings help determine proper processing decisions
4. Conflict Screening
5. Jury Transcript Analysis and Summarizing ROA contents
6. AI summary of OA cases and summaries of each brief
7. AI verifies accuracy of brief assertions regarding the record on appeal
8. Internal Court AI chatbot to help staff find authority/rules, etc.
9. AI chatbot on public website

Closing Thoughts

- We take pride in our reputation as an attorney friendly court.
- We strive to develop innovative processes and tools to help attorneys comply with procedural and technical pleading requirements, so attorneys can focus on the substantive legal issues in appeals.
- Our goal is to make is easier to practice and to provide Platinum Service.
- Help us achieve that goal by giving feedback on all aspects of our operations.

