Newsletter of the Utah Prosecution Council

The PROSECUTOR

RECENT CASES

United States Supreme Court

Self-Incriminating Actions in Non-custodial Interview Admissible
Two brothers were shot dead in their home and a witness saw a dark blue car drive away after hearing the shots. Investigators found petitioner had been at a party the night before and had a dark blue car parked in his driveway. Investigators asked petitioner to come to the station for a noncustodial interview. He agreed and provided them with his shotgun. He was not read his *Miranda* rights and understood that he was there voluntarily. He answered all of the police's questions until they asked him if his shotgun would match the murder weapon if they did a ballistics test. Instead of answering the question he became silent and nervous. He then answered more questions and was arrested for outstanding traffic warrants. He was released because there was not enough evidence. He was then arrested for the murder after investigators obtained a statement from someone who said they heard him confess to the killings.

At trial, prosecutors introduced his reaction to the officer's question about the shotgun as evidence of his guilt. Petitioner objected, but was overruled, found guilty and sentenced to twenty years in prison. On appeal to the Supreme Court, petitioner argued the prosecution should not have been allowed to use defendant's assertion of the privilege against self-incrimination during a noncustodial police interview as part of its case in chief. The Supreme Court held the petitioner must invoke the privilege against self-incrimination to be able to rely on it at trial. Here, the court held because petitioner did not invoke the privilege he could not object to his own words and actions being used against him. The court affirmed the judgement. *Salinas v. Texas*, U.S., No. 12-246, 6/17/13

Modified Categorical Approach Does Not Apply to Single Element Crimes
Defendant was convicted of being a

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felon in possession of a firearm. However, the Government sought an enhanced sentence under the Armed Career Criminal Act (ACCA) based on defendant's state convictions for burglary, robbery, and felony harassment. The ACCA increases the sentences of certain federal defendants who have three prior convictions for violent felonies. The ACCA prescribed a mandatory minimum sentence of 15 years for defendant. Defendant argued his prior burglary conviction could not count under the ACCA because it was under a state statute that did not include any violence or breaking and entering, rather it was just entering.

The U.S. Supreme Court granted certiorari to resolve a Circuit split on whether the modified categorical approach applies to statutes that contain a single, "indivisible" set of elements sweeping more broadly than the corresponding generic offense. According to the Supreme Court the Circuit split occurred when the Ninth Circuit ruled the defendant had been convicted of generic burglary and thus was subject to the ACCA on the basis of his plea. This Ninth Circuit decision split from the Supreme Court precedent that an elements-based "categorical approach" to assessing whether a conviction qualifies as a violent felony. The Supreme Court held the Ninth Circuit's application of a modified categorical approach diverges from Supreme Court precedent and "subverts [previous] decisions, conflicting with each of the rationales supporting the categorical approach and threatening to undo all its benefits." The Supreme Court held the District Court should not have enhanced defendant's sentence under the ACCA and the Ninth Circuit erred. The judgement was reversed. *Descamps v. United States*, U.S., No. 11-9540, 6/20/13

SORNA Applies to Defendants Who Have Served Their Sentence

Defendant was convicted of a federal sex offense in a special court-martial when he was a member of the Air Force. He served his sentence and was released. Defendant moved to Texas and registered with the state authorities as a sex offender. Congress then enacted Sex Offender Registration and Notification Act (SORNA). Defendant then moved within Texas, but did not make the legally required sex offender registration changes. The Federal Government then prosecuted defendant for his SORNA registration failure and he was convicted.

On appeal, defendant argued he could not be prosecuted under SORNA because he had fully served his sex-offense sentence when it was enacted and he was no longer in federal custody, in the military or under any type of supervised release or parole, or in any other special relationship with the federal government. The U.S. Supreme Court disagreed and held defendant was under the Federal Government's registration requirements and that SORNA did not change this, but brought together a patchwork of laws that were aimed at sex offender registration. The judgment was reversed and the case remanded. *United States v. Kebodeaux*, U.S., No. 12-418, 6/24/13

Enhancement Facts Must Be Determined by Jury

Petitioner and an accomplice planned to rob a store manager on his way to the bank. They faked car trouble and tricked him into stopping to help them. Then the accomplice demanded the money while brandishing a gun. Petitioner was charged with multiple federal offenses and using or carrying a firearm in relation to a crime of violence was included, §924(c)(1)(A). §924(c)(1)(A) is an enhancement and has multiple levels, including: 7 years for brandishing or not less than 10 years if fired. When petitioner was convicted by the jury, the jury indicated that the firearm was used, but did not specify how. The sentencing judge determined the firearm was

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brandished and increased his sentence accordingly.
On appeal, the U.S. Supreme Court overturned *Harris v. United States* and held the Sixth Amendment right to a jury trial mandates that the trier of fact must determine facts that are applied to enhancements. Here, the jury should have decided how the gun was used and what kind of sentence was triggered. The court held these facts are "element[s]" that must be submitted to the jury and found beyond a reasonable doubt. The court vacated the judgment and the case was remanded. *Alleyne v. United States*, U.S., No. 11-9335, 6/17/13

General Counsel's Recommendation Not Considered Property Under Hobbs Act
The Comptroller is the sole trustee of New York's Common Retirement Fund, the pension fund for the State of New York. The Comptroller normally would issue a commitment to invest in a fund and then enter into a limited partnership agreement to bind the State and the fund. Petitioner was a managing partner of FA Technology Ventures (FATV). In 2009 the Comptroller's office of New York was considering whether to invest in a fund managed by FATV. The Comptroller decided not to issue a commitment because the Attorney General was investigate another fund managed by FATV.
Shortly after the decision to not issue a commitment the general counsel for the Comptroller started receiving emails demanding a recommendation for moving forward with the investment in FATV. The emails threated that if he did not make the recommendation, then an alleged affair would be disclosed to the media and his wife. Law enforcement traced the emails to petitioner's home computer and offices of FATV.

Petitioner was convicted of attempted extortion in violation of the Hobbs Act. Extortion is defined as "the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right." §1951(b)(2). At trial, the jury found that petitioner sought to obtain the general counsel's recommendation to the Comptroller to invest in FATV.

The U.S. Supreme Court held the general counsel's recommendation "was not obtainable property under the Hobbs Act." The Supreme Court held petitioner committed coercion, not extortion, which is not a crime. The judgment was reversed. *Sekhar v. United States*, U.S., No. 12-357, 6/26/13

Utah Supreme Court

Tolling Provision Defines "Out of State" As Ordinary Meaning
Defendant began talking to an undercover federal agent, posing as a fifteen-year-old girl, online. Defendant started a sexually explicit conversation with the agent and arranged to meet the girl for sex at a mall in Utah. Defendant was arrested in Utah and indicted on federal charges of coercion and enticement of a fifteen-year-old girl. Defendant was a New Mexico resident and was returned there to await trial. He stayed there for two years, returning to Utah only to attend proceedings in federal court. The federal charges were then dismissed in May 2009 and defendant was charged with enticement of a minor by the State of Utah.

On appeal, defendant argued the district court erred in applying the Utah criminal tolling provision, which tolls the statute of limitations while a criminal defendant is —out of the state. He contends there are different definitions of "out of state." The Utah Supreme Court held that "out of state" means both: the ordinary meaning and the settled meaning in the law. The supreme court held that out of state means physically out of the state, which is the ordinary meaning of this phrase and the settled meaning

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PROSECUTOR PROFILE

Josh Player
Deputy District Attorney
Salt Lake County

Josh is a Deputy District Attorney for Salt Lake County. He has been there since 2003. That is a big step up from his first job, mowing lawns. He grew up in Taylorsville-Kearns area and wanted to be a fireman or a lawyer as a child. Josh's father was a tractor mechanic and his mother was a teacher's aide.

Josh met his wife, Michelle, on a blind date. Twenty two years later, they have two daughters and two dogs. Josh says his wife Michelle has been the biggest influence in his life and that becoming a father gave him a better perspective on the world.

Josh attended the University of Utah and earned his undergraduate degree in political science and minored in economics. He then attended Seattle University School of Law and graduated in December 1996. Josh said he decided to attend law school because he wanted to serve justice and he became a prosecutor because he felt it was the best position to do that.

He was a law clerk in the 4th district before a short stint in private practice. Josh then became a prosecutor as an Assistant Attorney General at the Utah Attorney General's Office before taking his current position. For Josh, the most satisfying part of his job is helping victims and defendants. He just wishes he had more time to do it.

Josh feels the most challenging part of being a prosecutor is managing his time and resources between several deserving cases. He says the most rewarding part is protecting victims and future victims. One of Josh's funny in-court moments was when a jury came back with a guilty verdict and the defendant fainted. Another funny experience, for us at least, is an embarrassing one for Josh. While prosecuting a case, he forgot to ask where the crime occurred and the case was dismissed.

Quick Facts

Born: Salt Lake City

Law School: University of Seattle School of Law

Favorite TV series: Scrubs

Favorite Food: Cheeseburger

Favorite Restaurant: The Dodo

Favorite Sports Team: The Pittsburg Penguins. Go Pens!

Pet: Two dogs: Guinness and Fred Rogers

Favorite Band: Led Zeppelin

Last Book Read: Empire of the Summer Moon, by S.C. Gwynne

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within the law. The Utah Supreme Court held the legislator intended the settled meaning of the law to be physically out of the state and affirmed the conviction. *State v. Canton*, 2013 UT 44

Utah Court of Appeals

Possession Of Identification Sufficient Evidence For Conviction

Carrera was found with someone else's social security card on his person and convicted of unlawful possession of another's identification document. Under Utah Law, someone is guilty of unlawful possession of another's identification document if "he obtains or possesses an identifying document with knowledge that he is not entitled to obtain or possess the identifying document."

On appeal, Carrera argued that there was insufficient evidence to demonstrate that he had knowledge that he was not entitled to obtain or possess the social security card found in his wallet. The evidence used against Carrera was that police found a valid social security card in his wallet with a name other than his own and Carrera told police he did not know the person whose name was on the card. The appellate court held there was sufficient evidence to support the jury's verdict when examining the totality of the evidence and inferences that could reasonably be drawn from the evidence. *Salt Lake City v. Carrera*, 2013 UT App 181

Padilla Does Not Apply Retroactively

Collins pleaded guilty to drug charges and was sentenced in 1996. After his conviction he was deported. In 2011, he filed a petition for postconviction relief claiming he received ineffective assistance of counsel based on *Padilla v. Kentucky*, which held that defendants must be informed of the immigration consequences of their pleading. Collins asserted his petition should be granted even though it was made fifteen years after his conviction because *Padilla* should apply retroactively.

However, in *Chaidez v. United States* the U.S. Supreme Court held that *Padilla* does not apply retroactively because it announced a new legal rule that brought deportation within the scope of ineffective assistance of counsel. The appellate court held the explicit holding in *Chaidez* foreclosed Collins from being able to prove he was entitled to relief based on the precedent and affirmed his conviction. *Collins v. State*, 2013 UT App 182

Judge Properly Screened Jurors Concerning Prejudicial News Article

Defendant sexually abused a child in Washington, Utah in 2002. He was charged in 2008 shortly after the child reported the abuse to authorities. Defendant moved to suppress certain evidence involving allegation of other acts and the trial court granted his motion. On January 19, 2011 an eight-member jury was selected, but not sworn in. Before the court adjourned for the day, the judge was careful to warn the jury members that they not talk about this trial with anyone, keep an open mind until the evidence and arguments are completed and remain impartial and fair.

The next day the local newspaper published an article containing inadmissible evidence. When the proceedings resumed, the trial court checked to see if any of the jury members had read the article. Juror 18 indicated she had read some of paper that morning, but when asked if she had read anything about the case she responded "absolutely not." Afterwards, the judge was careful to bring in any jurors he had questions about and questioned them further about if they had any contact with people or news regarding the trial. The jury was sworn in and defendant was convicted of sodomy on a child,

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sexual abuse of a child, and lewdness involving a child.

The appellate Court previously held that "when requested by counsel to poll the jury regarding publicity during the trial, the trial court must rule as a matter of law whether the publicity is potentially prejudicial or not prejudicial at all. If the publicity is potentially prejudicial, then the trial court must question the jurors regarding their exposure and their understanding of it."

Here, the appellate Court held the evidence was inherently prejudicial. However, the trial court questioned each juror individually and the appellate held the trial court adequately performed its duty and defendant did not demonstrate plain error. *State v. Daughton*, 2013 UT App 170

Appellate Court Can't Review Substantive Decision of Board of Pardons & Parole

Defendant appealed the trial court's order granting the Board of Pardons and Parole's motion for summary judgment. Initially the trial court denied the Board's motion for summary judgment, but then the State moved to have the decision reviewed under Rule 60(b) and was granted summary judgment. Rule 60(b) may "relieve a party . . . from a final judgment, order, or proceeding," based on certain grounds including mistake. A motion pursuant to rule 60(b) may be used as a means to obtain a trial court's reexamination of the denial of a motion for summary judgment.

Appellant asserted that the trial court erred in reviewing the State's 60(b). Appellant raised many issues with the process, but the court of appeals held, "Regardless of how his appeal is framed, [appellant] challenges the substantive decision of the Board." The court of appeals held that the substantive decision of the Board is not "within [its] purview" and [appellant] failed to present a substantial issue for review warranting further proceedings by the court of appeals. *Godfrey v. Board of Pardons & Parole*, 2013 UT App 171

Multiplicity Does Not Apply to Individually Prohibited Acts

Defendant sexually victimized five juveniles between 1994 and 1999. The State filed an information charging thirty sexual offenses against children and then amended it four times, over two years. Before trial, defendant moved for a change of venue, to dismiss nine counts of the second amended information and a motion to sever the counts for trial. The trial court denied the venue and dismissal motions. However, the court granted the motion to sever only counts 26 and 27. Prior to trial, defendant entered into a plea agreement with the state. He plead guilty to three counts of sodomy on a child and was sentenced to fifteen years to life for each count and ordered the sentence to run concurrently.

On appeal, defendant argued the trial court erred by denying his motion for a change of venue, a motion to dismiss for violation of the rule against multiplicity, motion to dismiss claiming the state should not have been allowed to amend the information so many times. The court of appeals held the trial court did not abuse its discretion by denying defendant's motion to change venue after the court reviewed the *James* factors. The court held defendant did not raise a reasonable likelihood that a fair and impartial trial could not have been afforded to him.

The appellate court also held the trial court properly denied defendant's motion to dismiss for violation of the rule against multiplicity. The rule against multiplicity is a Fifth Amendment right which prohibits the Government from charging a single offense in several counts and is

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Class Photo
Utah Municipal Prosecutors Association
Summer Conference
August 1-2, 2013
Torrey, Utah

On the Lighter Side

Wackiest Warning Labels

In June, the Center for America selected their finalists for the Wackiest Warning Label of the Year. My favorites include the label on a common indoor extension cord—"Wash hands after using" (for those of us for whom the interaction between water and electrical outlets is still a mystery); the warning on a package of rubber worms made for fishing—"Not for human consumption" (thanks for the tip—I thought they were like Gummi Worms, just chewier and without flavor); and the warning on a bottle of spray-on anti-fog cleaner—"Not for contact lenses or direct use in the eyes."

Having Fun with Lawyers

Perhaps the best way to get back at angry lawyers is to do what Chris Shepherd recently did. The Houston chef operates Underbelly, a local restaurant that until recently offered a burger called the "UB Double Double." When lawyers for California-based fast food chain In-N-Out sent him a letter threatening litigation over the similarity to In-N-Out's "Double Double," Shepherd decided not to play David and try to fight Goliath and his army of humorless lawyers. Instead, he complied with the cease and desist letter by re-naming the burger the "Cease and Desist Burger." It consists of two hamburger patties (all of Underbelly's meat is butchered on-site at the restaurant), two slices of cheese, lettuce, tomatoes, and pickles (Underbelly's vegetables are locally grown), and just a bit of wry (humor, that is). Since the controversy, the Cease and Desist burger has become one of the most popular items on the menu.

The Happiest Court on Earth

A family court judge in Arizona recently found the best way to deal with an ex-husband who opposed his ex-wife's request to take their children out of state to Disneyland. In granting the mother's request, the judge wrote "The Court cannot think of any good reason why any parent would refuse to agree in writing for his or her children to go to Disneyland . . . . If in fact Father has refused Mother's travel requests, then Father's refusal for the sake of refusal is nothing more than a Mickey Mouse litigation tactic, and just plain Goofy." Well said, judge!

http://setexasrecord.com/arguments/287665-legally-speaking-the-lighter-side-of-the-legal-system

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intended to prevent multiple punishments for the same act. The court held "The test is whether the individual acts are prohibited, or the course of action which they constitute. If the former, then each act is punishable separately . . . If the latter, there can be but one penalty." *Blockburger v. United States*, 284 U.S. 299, 302 (1932).

Here, the court held defendant's charges of multiple counts of rape of a child, sodomy on a child and sexual abuse of a child were intended to criminalize each individual act. The court held it is evident from the statutes that the legislature intended to prohibit each individual act attached to these crimes.

Lastly, the court held the trial court properly denied defendant's motion to dismiss claiming constitutional and rule deficiencies. Defendant argued that by allowing the state to amend the information multiple times his defense was hampered and "violated his due process rights by presenting him with "constantly moving targets in terms of dates, times, and events."" The court held due process does require an exact date when an alleged offense occurred and that the state provided defendant with adequate notice. The appellate court affirmed the convictions. *State v. Hattrich*, 2013 UT App 177

Good Faith Exception Saves Misleading Affidavit

Defendant was convicted for production of marijuana, possession of Marijuana with intent to distribute, unlawful possession of a handgun, and possession of drug paraphernalia. On appeal, he argued the district court erred in denying his motion to suppress the evidence because the affidavit supporting the search was deficient. Defendant argued the confidential source used to support the affidavit was unreliable and the affidavit itself contained misleading statements.

The court of appeals relied on *U.S v. Leon*, which held that the exclusionary rule does not bar evidence obtained by officers acting in good faith reliance on a defective warrant. The court also held that suppression is an appropriate remedy if the magistrate or judge issuing the warrant was misled by information that the affiant knew was false.

Here, defendant claimed the affidavit was misleading because it led the judge to believe the affiant witnessed people pull up to a house and buy drugs, when really they just pulled up and had a conversation. Also, defendant claimed it was misleading when it stated, "the suspects living at this address never place their garbage out for normal pickup." Defendant argues this was misleading because it led the judge to think they never had placed their garbage out to conceal their evidence of drugs, but what it really meant was they had never placed their garbage out during the investigation.

The appellate court held the affidavit was misleading, but affirmed the conviction and held the evidence seized during the search was admissible under the good faith reliance exception set forth in *U.S. v. Leon*. *State v. Nielsen*, 2013 UT App 178

Court Erred In Granting Summary Judgment

In 2007, a westbound car crossed over the median on I-80 in Parley's Canyon and into oncoming eastbound traffic colliding with the Pagets' vehicle, killing their daughter and severely and permanently injuring Ms. Paget. The Pagets sued UDOT claiming UDOT was negligent for not constructing a barrier to separate eastbound and westbound traffic.

UDOT filed a motion for summary judgment providing expert testimony that it

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had not breached the applicable standard of care and that the Pagets' expert testimony was inadmissible. UDOT argued it had met the standard of care because according to its expert the barrier was "not required" when the road was first constructed and only "optional" at the time of the crash , according to the American Association of State Highway and Transportation Officials (AASHTO). UDOT's expert did a very thorough analysis of the road and the crash site and used the AASHTO's median barrier requirement matrix to come to this conclusion. Paget's expert did not do a physical inspection of the road or crash site, reported incorrect widths and road grades and came to the conclusion that a median barrier should have been constructed.

The district court found UDOT's decision to not construct a median barrier was reasonable, the Pagets had failed to make the required "threshold showing" that their expert was reliable and granted summary judgment for UDOT.

On appeal, Pagets argue their expert's testimony should not have been excluded under 702 and summary judgment should not have been granted because regardless of the AASHTO standards, the decision to not construct a median barrier was unreasonable. The court of appeals held the district court did not abuse its gatekeeping function by excluding the Pagets' expert because he used unreliable methods, inadmissible data, and was not aware of the generally accepted standard, the AASHTO guidelines.

The court of appeals also held that the district court erred in granting summary judgment in favor of UDOT because UDOT failed to show anything other than the median was optional under the AASHTO guidelines. However, the court points out that the guidelines are vague because the only consideration is if there had been a "history of cross-median crashes." UDOT did not provide an explanation or more data to show that they reasonable decided that there had not been a history of cross -median crashes or any other reason for not building a median when it was considered optional. The court held that as a matter of law UDOT failed to demonstrate that it met the standard of care. The judgment was reversed and remanded. *Paget v. UDOT*, 2013 UT App 161

Insufficient Evidence Is Sufficient for Lesser Included Offense

Pullman molested the victim from her twelfth birthday on for about a year. The victim testified that Pullman grabbed her breasts and buttocks, over and under her clothing. The victim also testified that Pullman tried to have anal sex with her once. Pullman was convicted of sodomy on a child and two counts of aggravated sexual abuse of a child.

On appeal, Pullman argued the evidence was insufficient to support his convictions, that a manifest injustice occurred in the drafting of a jury instruction., Utah Code section 76-5-407,which defines what kind of touching satisfies the *actus reus* elements of various sexual offenses, was unconstitutional, the trial court erred in admitting testimony by his ex-wife that Pullman had repeatedly sought to engage in anal sex with her.

The appellate court agreed with Pullman that there was insufficient evidence to convict him of sodomy of a child. The victim testified that when she was asleep, ""he'd come into my room and tried to take my panties off and stick his dick into my butt." The appellate court held that this testimony was "sufficiently inconclusive… that reasonable minds must have entertained a reasonable doubt as to whether

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Pullman's act involved the touching of her anus." However, the court held there was sufficient evidence to find the lesser included offense of attempted sodomy on a child and therefore the court vacated the conviction for sodomy on a child and entered a conviction for the lesser offense.

Lastly, Pullman's appeal that the court erred in allowing his ex-wife to testify that he had repeatedly asked for anal sex was denied. The appellate court held the trial court did not abuse its discretion in determining that Pullmans wife's prior testimony was relevant to a non-character purpose and that its probative value was not substantially outweighed by a danger of unfair prejudice. The court held that the evidence supported the State's theory that Pullman had unfulfilled desire to have anal sex with his wife and that he turned to the victim, whom he had already started to sexually victimize. The state provided many examples of cases where it was admissible to show the defendant tried to fulfill a sexual desire for anal sex with a child. The appellate court affirmed all the convictions except one, which it reversed and remanded for resentencing. *State v. Pullman*, 2013 UT App 168

Restitution Award Reversed For Failure To Examine Preexisting Conditions

Defendant had sex with the fifteen-year-old victim twice at the victim's home. The victims' younger sister witnessed these events. Both were traumatized and needed therapy. The victim became unusually upset and suicidal immediately after the incident. The victim's parents enrolled her in a residential treatment facility. She received treatment for the incident with defendant and other areas of concern, such as depression, substance abuse, family issues and hypersexuality. The victim's parent spent $51,000 on the residential treatment over nine months. The family also spent $995 on outpatient treatment for the victim and her sister. As part of defendant's restitution he was ordered to pay $51,995 to be paid in installments. The court determined the cost of the treatment was reasonable and was necessitate by the suicidal thoughts that were a result of the defendant's actions, even though the victim benefitted from treatment of other pre-existing conditions.

On appeal, defendant argued the restitution award was excessive. The court of appeals held "the trial court's findings in support of its determination of complete restitution were insufficient, and we must remand for the trial court to make more detailed findings in support of its determination of complete

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restitution, taking into account the extent to which the therapy at La Europa was necessitated by preexisting conditions that were neither caused nor exacerbated by Ruiz's actions and thus were too temporally or factually attenuated to have been the result of Ruiz's criminal conduct." The appellate court held the trial court failed to examine how the victim's preexisting conditions impacted her need for the level of therapy. The restitution order was reversed and remanded for reconsideration of the other factors contributing to the victims need for therapy. *State v. Ruiz*, 2013 UT App 166

Trial Court Not Required To Hold Hearing On Placement of Mentally Ill Defendant

Swogger pleaded guilty with a mental illness at the time of the offenses to aggravated sexual assault, attempted murder, and aggravated burglary. The district court imposed statutory prison terms for each offense. Swogger appealed claiming the district court plainly erred when it failed to conduct a hearing to determine his present mental state and when it decided to sentence him to the Utah State Prison.

The appellate court held that the courts conclusions, that Swogger was not fit for the mental hospital and should have been placed in the state prison, were amply supported by the record. The appellate court also held the district court was not required to hold a hearing as a part of sentencing because the justices were not convinced that section 104, the statute which governs the need for a hearing to determine present mental state, plainly requires a second hearing as a part of sentencing where the court is required to hold a hearing only with accepting the plea under section 103, the statute which governs pleas of guilty with a mental illness. The appellate court held the trial court had plenty of evidence to make its determination and that a separate hearing might be helpful, it was not required. The appellate court held the decision to commit Swogger to the prison was well within the court's discretion under the statute. The decision was affirmed. *State v. Swogger*, 2013 UT App 164

No Harmful Confrontation Clause Error When Able to Cross Examine On All Facts

J.B asked defendant for a ride to a friend's house and defendant picked her up. Rather than take her where she wanted to go, he took her to his home. J.B asked to go to the friend's house multiple times, but stayed over. They took drugs together and after a few days J.B told defendant she was leaving. He became angry, raped J.B., and then emptied her wallet.

After reporting the rape, J.B. left the state, but returned to testify at trial. On the first day of trial, she was called to testify and she testified she had visited Temple Square upon returning to Utah. On cross-examination she denied visiting a defense witness, giving the witness money and asking for drugs.

On the second day of trial, J.B. was recalled to the stand by the State and admitted that her prior testimony about what she had done the night before the trial had not been accurate. She also testified about the events giving rise to the charges against defendant and denied she had visited a witness the night before the trial.

On the third day of trial, the prosecutor disclosed information that showed J.B. had given false information and probably visited a witness. Eventually the State and defendant stipulated that J.B's revised testimony about her whereabouts on the night before the trial was false and that J.B. had visited a witness's neighborhood.

On appeal, defendant argued his rights under the Confrontation Clause were violated because "he did not have the opportunity to cross-examine the complaining

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witness about her motives for lying twice under oath about visiting one of the key witnesses."

The court of appeals analyzed the denial of a third-cross examination of J.B. under the *Van Arsdall* factors. After analyzing the *Van Asdall* factors, the appellate court held defendant was able to cross-examine J.B. on each of the facts gained from her at trial, except her false statement regarding her whereabouts on the night before trial. The appellate court held defendant did not show there was any exclusion of substantive evidence and the court was not convinced defendant was prevented from showing that the perjuries tainted J.B.'s credibility as a witness. The appellate court concluded "any Confrontation Clause error was harmless beyond a reasonable doubt." *State v. Vigil*, 2013 UT App 167

Disqualification Must Be Addressed Before Merits of Case

Williams appealed the dismissal of his rule 65B petition and other claims against the Utah Department of Corrections (the Department). Williams initiated the action by filing a document entitled "Petition for Extraordinary Relief, Independent Action, Petition for Review of Records Denial." The Department moved to dismiss. Williams opposed the motion to dismiss and moved to disqualify the entire Utah Attorney General's Office. Defendant alleged the Department had confiscated all of his legal material at the direction of Assistant Attorney General, the same Assistant AG had read his legal material related to the lawsuit and that this exposure of his work product gave the Department an unfair advantage in defending against his claims. The trial court did not rule on this motion, but dismissed the petition.

The court of appeals held the trial court should have dealt with the motion to disqualify before deciding the merits of the case. Here, the trial court granted the motion to dismiss without determining whether the Attorney General should have been disqualified. The court of appeals reversed and remanded the case for the trial court to rule on the motion for disqualification. *Williams v. Department of Corrections*, 2013 UT App 159

Failure To Report Arrest Willful Violations of Probation

Defendant pleaded guilty to one count of aggravated assault and made a plea in abeyance agreement. The trial court held his plea in abeyance for twenty-four months and placed him under the supervision of Adult Probation and Parole (AP&P). Defendant was then arrested for another charge of aggravated assault. AP&P submitted a report about defendant's failure to report the arrest. The AP&P report recommended defendant be incarcerated and the trial court issued an Order to Show Cause why he was found in violation of the conditions of the plea in abeyance. After an Order to Show Cause hearing, the trial court found defendant was in violation of the terms of the plea in abeyance and sentenced him to zero to five years.

On appeal, defendant claimed the trial court erred when it revoked his probation because there was insufficient evidence to support a finding that the violations were willful. The court of appeals held that there was no requirement for the violations to be willful because defendant was not on probation, rather he had conditions placed on him in accordance with making a plea in abeyance agreement. The court of appeals held, "If after an evidentiary hearing the trial court finds that a defendant has failed to substantially comply with any term or condition of the plea in abeyance agreement, it may terminate the agreement and enter judgment of conviction and impose sentence against the defendant for the offense to which the original plea was entered." Here, defendant did not claim to have complied with the terms of his plea in abeyance

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agreement and so the judgment was affirmed. *State v. Wimberly*, 2013 UT App 160

Tenth Circuit Court of Appeals

Restitution for Clean Up or Repair Costs for Intellectual Property Was Acceptable

Defendant was convicted of trademark infringement, counterfeit production, and trafficking of weight loss drugs. Defendant planned and executed a scheme to produce counterfeit weight loss drugs, switching a main ingredient out with one that is more dangerous and could cause death or serious injury. The manufacturer became aware of the counterfeit products on the market and placed advertisements warning the public of the risk of the drugs that was being placed in the counterfeit drugs. The manufacturer purchased these advertisements a few times over the course of the investigation. When defendant was sentenced he was ordered to pay $507,568.39 in restitution to the victims.

On appeal, Defendant contended the district court incorrectly included $385,217 of what he called "public relations" expenses in the restitution he was ordered to pay the manufacturer, asserting such costs are not compensable under the Mandatory Victims Restitution Act, 18 U.S.C. § 3663A (MVRA). The U.S. Court of Appeals for the Tenth Circuit held that a district court has broad discretion in crafting a restitution order under the MVRA and that restitution for cleaning up or repair costs of intellectual property and reputation were appropriate. The appellate court also held that these costs were reasonable because they represented the costs paid for the services to warn the public and protect their brand, not the actual damage done to the company's trademarks, reputation and goodwill. *United States v. Zhou*, 10th Cir., No. 11-1261, 6/10/13

Hate Crimes Act Upheld

Defendant and two accomplices convinced a mentally disable Navajo man, V.K. to come to their apartment. Defendant then drew satanic and anti-homosexual images on his back, shaved a swastika into his hair, and branded a swastika into his arm with a heated wire hanger. The state of New Mexico charged three men with kidnaping, aggravated battery and conspiracy to commit the crimes.

While the state charges where still pending, the federal government charged the three men with the Hate Crimes Act, which makes it unlawful to subject someone to physical violence on account of the person's race. Defendant moved to dismiss the federal indictment, claiming the statute was unconstitutional because the federal government did not have the right to criminalize his intrastate conduct. The motion was denied and defendant was convicted. On appeal, defendant again argued the statute was unconstitutional.

The U.S. Court of Appeals for the Tenth Circuit held the Thirteenth Amendment was meant to give Congress the power to legislate intrastate actions concerning race. The Court of Appeals also held that Section 2 of the thirteenth Amendment authorized Congress to enact the racial violence provision of the Hate Crimes Act because it was a limited approach in applying the "badges-and-incidents" doctrine to violence motivated by race. The conviction was affirmed. *United States v. Hatch*, 10th Cir., No. 12-2040, 7/3/13

Public Safety Exception Applied

Defendant was wanted for failure to appear on sex charges and was found camping in a state park in New Mexico. U.S. Marshals approached the defendant with three cars and when the marshals got out of the cars they ordered him to the ground. Defendant was near the door of his truck, the truck door

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was open and a gun was visible in the door pocket. Defendant complied with the instructions, laid down and was handcuffed.

After handcuffing defendant, the marshals went to secure the area and asked defendant if he had any weapons. He replied that he had weapons in the truck, the marshal then asked him if he could go in the truck and get the weapons. Defendant answered that he did not mind and then gave the marshal instructions on where the guns were located. The marshal seized seven guns and 1,000 rounds of ammunition. Defendant was not advised of his *Miranda* rights.

Defendant was charged with possession of a firearm by a fugitive and filed a motion to supress all evidence seized from his vehicle and any statements made when he was arrested. The motion was denied and defendant plead guilty.

On appeal, defendant argued the district court erred by applying the public safety exception to his pre-*Miranda* statements. The U.S. Court of Appeals for the Tenth Circuit held, "an officer may question a suspect in custody without first giving *Miranda* warnings if the question arise out of "an objectively reasonable need to protect the police or the public from any immediate danger associated with the weapon." 467 U.S. at 659 n.8."

Here, the government argued that concerns for public safety justified the questions because the marshals knew defendant was armed and dangerous, there were other people in the campground near defendant's campsite, and the questions took place within the first sixty seconds before the marshals could complete their sweep of the area. The court of appeals held they did not need to address the government's arguments and erode *Miranda* protections because any error of the district court was harmless beyond a reasonable doubt. The conviction was affirmed. *United States v. Mikolon*, 10th Cir., No. 12-2139, 7/9/13

Other Circuits/ States

Overbroad Warrant May be Severed

Defendant was a registered sex offender in the State of New York. Some concerned citizens noticed he was having contact with young boys. Defendant was being investigated for unreported contact with young boys, failing to register online identities, and trying to engage in sexual conduct with juveniles. Investigators applied for a warrant and a warrant was granted allowing for a search for "property believed to contain evidence that will constitute, substantiate or support violations of [the law]." The warrant did not incorporate the application, but did list a very extensive and specific type of things a places the officers could search.

The search was executed and a computer and digital photography equipment were found to contain images of child pornography. Defendant was indicted on multiple counts stemming from the possession of child pornography. Defendant moved to supress the evidence obtained from the search warrant arguing the investigators lacked probable cause to believe that he had committed any offense beyond failing to register an internet identifier. The motion was denied.

The U.S. Court of Appeals for the Second Circuit held the warrant was facially overbroad and violated the Fourth Amendment's

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particularity requirement. However, the court held that the warrant may be severable. The court held, "when a warrant is severable the portion of the warrant that is constitutionally infirm…-usually for lack of particularity or probable cause- is separated from the remainder and evidence seized pursuant to that portion is suppressed; evidence under the valid portion may be admitted." After the analysis, the Court of Appeals held, "because the current factual record is focused principally on the scope and conduct of a computer search for evidence of child pornography and contact with minors, the district court must, on remand develop a record as to the proper scope and conduct of a search for evidence of the existence of unregistered internet accounts and internet communication identifiers." The judgment was affirmed in part, vacated in part and remanded.

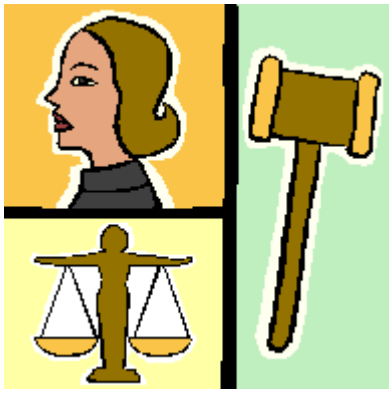
United States v. Galpin, 2d Cir., No. 11-4808-cr, 6/25/13

Hypothetical Answers By Non-Expert Admissible

Defendant was an executive for a retail drugstore chain in New York and arranged to inflate the earnings in SEC filings through fraudulent transactions. Defendant arranged to sell leases, which lacked any value, for a large amount of cash to a cooperating real estate management group. Defendant would then pay the group on the side and expense the cost to hide the transaction.

Eventually, defendant was caught and at trial accountant's testified about the actions defendant had taken to commit the fraud. At one point during the trial, accountants were presented with information that was withheld during audits and asked if the withheld information would have affected their analysis. The accountant replied that if they had been aware of the withheld information they would not have recognized the full transaction proceeds as revenue, lowering the value of the company. Defendant was convicted of securities fraud.

On appeal, defendant claimed the accountant testimonies were inadmissible either because they were expert testimony given by non-experts or because they were not testifying to facts they had personally observed. The U.S. Court of Appeals for the Second Circuit held the hypothetical question did not require the witness to testify about facts; rather they gave an opinion about what action they would have taken if they had more information. The appellate court also held that because they were giving opinion, there was no need for them to be experts. The appellate court held, "under the specific circumstances the admissible fact testimony that was relevant, probative, and … carefully controlled so as to not be unfairly prejudiced… was admissible as lay opinion testimony." *United States v. Cuti*, 2d Cir., No. 11-3756-cr, 6/26/13



Death Threats For Judges Not Protected By First Amendment

Turner was a self-starting talk show host. He was popular with white supremacists groups for his opinions on race and politics. He was asked by the FBI to report any violent acts he learned about with his connections to these groups. The FBI later terminated their relationship with him because he ignored repeated admonishments regarding his own violent internet speech.

In June 2009, Turner published on his blog a post entitled, "OUTRAGE: Chicago Gun Ban UPHELD; Court says Heller ruling by Supreme Court no applicable to states or municipalities!" Turner went on to advocate for the death of the three judges who decided the case. He stated:

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Government lies, cheats, manipulates, twists and outright disobeys the supreme law and founding documents of this land because they have not, in our lifetime, faced REAL free men willing to walk up to them and kill them for their defiance and disobedience.

Thomas Jefferson, one of our Founding Fathers, told us "The tree of liberty must be replenished from time to time with the blood of tyrants and patriots." It is time to replenish the tree!

Let me be the first to say this plainly: These Judge deserve to be killed. Their blood will replenish the tree of liberty. A small price to pay to assure freedom for millions.

Turner then referred to the murders of United States District Court Judge Joan Lefkow's husband and mother in the judge's home. Turner connected this horrible crime to a case involving a white supremacists group which lost a case to keep their name to a trademark filing. He stated, "Apparently, the 7th U.S. Circuit court didn't get the hint after those killings. It appears another lesson is needed."

The next day, Turner posted the names, addresses, photographs, and a map of the Judges and their work places. On the map Turner had written, "Anti-truck bomb barriers," to show where these barriers were around the building.

Turner was convicted of threating a federal judge and on appeal argued he was engaged in First Amendment-protected speech and that the evidence was insufficient to prove he threated the Judges. The U.S. Court of Appeals for the Second Circuit disagreed and held the evidence was more than sufficient to convict him. The statute required Turner to have: threatened, to assault or murder a federal judge and intended to impede, intimidate or interfere with such judge while engaged in the performance of official duties or intended to retaliate against such judge on account of the performance of official duties.

The court of appeals held the test for whether conduct amounts to a true threat "is an objective one—namely, whether an ordinary, reasonable recipient who is familiar with the context of the communication would interpret it as a threat." The court of appeals held, "Turner's statements constituted a threat of serious harm to the three victim judges, and that Turner undertook this threat with the intent to intimidate them while they were engaged in the performance of their duties or to retaliate against them for said performance." *United States v. Turner*, 2d Cir., No. 11-196-cr, 6/21/13

Enhancement For Killing While Involved In A Drug Conspiracy Upheld

Hager sold crack cocaine in Washington D.C. in 1993. That same year he shot two people over a dispute about a gun. Hager then went into hiding at his girlfriend's house. While staying there, Barbara White stopped by. Hager was afraid White would tell people from the rival gang that he was there. He decided to kill her. He recruited two conspirators, went to her apartment, and stabbed her to death. Defendant was found to have intentionally killed Barbara White while engaged in the sale of drugs. Hager was sentenced to death because of the crime and the enhancement for the sale of drugs.

On appeal, Hager argued he should not have received the death penalty because the statue required him to have killed White while engaging in the sale of drugs. Hager argued the connection between her murder and his drug sales was too tenable. The district court found the statute applied "to killings done while engaging in an offense, not an act, punishable under § 841. An offense, of course, involves much more than a single act."

The U.S. Court of Appeals for the Fourth Circuit held, " All of

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Hager's apparent purposes for killing White were intertwined with his drug conspiracy. Thus, it is for these reasons that we hold that the government presented sufficient evidence on which the jury could find the necessary nexus between Hager's drug conspiracy and White's murder to establish a violation of § 848(e)(1)(A)." The court of appeals affirmed the sentence. *United States v. Hager*, 4th Cir., No. 08-4, 6/20/13

No One Can Give Lawful Authority To Use I.D. Unlawfully

Defendant was convicted of multiple counts of bank and identity theft fraud. He and several conspirators operated a scheme to defraud Bank of America through stolen checks. He would steal mail to obtain credit card convenience checks. He would then pay local college students for their bank account information, ID's, and ATM cards. Lastly, he would take the convenience checks into a bank, deposit a large fraudulent check and then withdraw the money before the bank could notice the check was a fraud. Defendant would often use runners to deposit the checks and withdraw the money, but he did it himself a few times.

On appeal, defendant argued he could not be convicted of I.D. fraud if the people allowed him to use their identification. The statute states someone commits aggravated identity theft as, "during and in relation to any felony violation enumerated in subsection (c) [including bank fraud], knowingly . . . uses, without lawful authority, a means of identification of another person." Defendant argued he had lawful authority to use the identification to carry out his plan.

The U.S. Court of Appeals for the Fourth Circuit held that "no amount of consent from a co-conspirator can constitute "lawful authority" to engage in the unlawful activity." The conviction was affirmed. *United States v. Otuya*, 4th Cir., No. 12-4096, 6/19/13

Due Diligence Is Not A Defense For *Brady* Violations

Tavera was arrested as he transported a large amount of methamphetamine in a truck full of construction equipment and nails. At his trial, Tavera testified he thought he was traveling for a construction job. After his conviction, Tavera learned his co-defendant participated in plea negotiations and told the prosecutor in Tavera's case that Tavera did not know about the drug conspiracy. The prosecutor failed to disclose the statements to Tavera and the jury never learned of the co-defendant's statement. The U.S. Court of Appeals for the Sixth Circuit held this was a clear violation of *Brady* and vacated the sentence.

On appeal, the government argued Tavera's attorney should have done due diligence to discover the statements. The Sixth Circuit held the idea of placing the burden of due diligence on the defendant had previously been rejected in *Banks* and that *Brady* "imposes an independent duty to act on the government." *United States v. Tavera*, 6th Cir., No. 11-6175, 6/20/13

Fleeing Violates Plea Agreement

Defendant was charged with conspiring to distribute cocaine in 2005. Defendant then signed a plea agreement in January 2007 admitting that he had distributed cocaine and possessed cocaine with intent to distribute in violation of 21 U.S.C. § 841(a)(1). In the plea agreement, the government promised "to recommend a sentence at the minimum of the applicable sentencing guidelines range" and agreed to a series of stipulations that would be "binding on the parties," though those stipulations would be only a recommendation to the Court." Defendant would also receive three levels of reduction to his sentence. Defendant entered his guilty plea

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at a hearing in 2007 and was supposed to appear for a sentencing hearing. He never appeared for the sentencing hearing and instead fled to Mexico. Nearly five years later, he was arrested and extradited to the U.S. to appear for sentencing.

At sentencing, a base level of 32 was recommended and endorsed by the government. Defendant argued the government was still bound by the plea agreement and a stipulated level of 30 should have been the sentence. The sentencing court disagreed.

On appeal, defendant argued the government breached its agreement, even though he fled, because the agreement did not have express language allowing them to retract it. The U.S. Court of Appeals for the Seventh Circuit held the defendant's "failure to appear for sentencing violates the conditions of pretrial release and one of the fundamental premises underlying any plea agreement: a willingness to face the consequences of admitted criminal conduct." The appellate court agreed with the Fourth Circuit and held, "a defendant breaches a plea agreement when he absconds before sentencing even if the agreement is silent on the subject." *United States v. Munoz*, 7th Cir., No. 12-3351, 6/10/13

Prison Officials Have Absolute Immunity When Executing Facially Valid Court Orders

Defendant was sentenced to four concurrent twenty year prison terms for four counts of sexual assault. The trial court then sentenced defendant to serve thirty years because he was considered a persistent felony offender under Montana law. However, the trial court suspended defendant's entire sentence and imposed probation instead, even though under Montana law the first five years of a sentence may not be deferred or suspended. The Montana Supreme Court held that the sentencing court lacked authority to suspend his entire sentence because he was a persistent felony offender.

On remand, Defendant was sentenced to four concurrent twenty -year terms. The court did not mention his status as a persistent felony offender and did not impose a five year minimum sentence. The State did not appeal the sentence.

Defendant was discharged for good behavior after ten years. Once he was out of prison, he brought suit against Mahone and Slaughter, the prison warden and director of the Department of Corrections alleging that Mahoney and Slaughter "would only release me [Jesse Engebretson] to a probationary sentence, even though I had informed them that such was an illegal sentence." In other words, the Engebretsons sought damages because Jesse Engebretson was released from prison earlier than he should have been." Defendant claimed the sentence was illegal in the first place and that the prison officials should have investigated the sentence before making him serve it.

The U.S. Court of Appeals for the Ninth Circuit held, "prison official charged with executing facially valid court orders absolute immunity from §1983 liability for conduct prescribed by those orders. *Engebretson v. Mahoney*, 9th Cir., No. 10-35626, 5/30/13

Defendant has Right to Make Decision About Testifying

Defendant was indicted for two counts of transmission of threatening interstate communications in violation of 18 U.S.C. § 875(c). Defendant's attorney recommended a hearing be held and the court ordered a psychological evaluation and competency hearing. During the psychological evaluation, defendant was uncooperative and the psychologist was not able to perform a full battery of tests. However, the psychologist concluded defendant suffered from Delusional Disorder, Persecutory Type.
At the

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competency hearing, the court asked defense counsel if they had any evidence to present and defendant's attorney said they did not, even though defendant had requested to testify under oath. The attorney told the court he had advised defendant to not testify and defendant yelled at his attorney and the judge. Defendant was then removed from the court room, was not allowed to testify and the judge found he was not competent to assist his counsel in defending against the charges.

On appeal, defendant argued the court violated his constitutional right to testify on his own behalf. The U.S. Court of Appeals for the Ninth Circuit held a defendant has a constitutional right to testify at his pretrial competency hearing. Because a defendant's right to testify "is personal, it may be relinquished only by the defendant, and the defendant's relinquishment of the right must be knowing and intentional." The court recognized a defendant may waive his right to testify when he is silent or disruptive. However, here defendant had clearly indicated he wanted to testify and was denied that opportunity. The Court of Appeals held the district court violated defendant's constitutional right to testify at his pretrial competency hearing and vacated the court's finding that he was incompetent to stand trial and remanded the case for a new competency hearing. *United States v. Gillenwater*, 9th Cir., No. 12-30027, 6/17/13

Fingerprint Cards Are Business Records

Defendant was involved in a conspiracy to import marijuana into Omaha, Nebraska. He employed Conway and several other individuals in the conspiracy. Conway was arrested and defendant started paying Conway's legal fees. However, Conway cooperated with the government and hired a new attorney. Defendant started contacting the new attorney, Haddock, to smuggle in a cell phone to Conway. Eventually, defendant trusted Haddock and started using his services. Defendant was then arrested in Arizona for smuggling marijuana, but was released before Nebraska could inform them of his activities in Nebraska. Eventually, defendant was arrested, placed in a cell with Conway, and convicted on evidence shared between the two while sharing a cell in jail, which was arranged by Haddock.

On appeal, Defendant filed a pro se motion claiming the district court erred by admitting fingerprint cards from his arrest in Arizona under the alias "Donald Jarmon." At trial, the government called a fingerprint specialist from Nebraska to testify that the prints from Donald Jarmon matched defendant's. Defendant claimed this violated his Sixth Amendment Confrontation Clause rights because he did not have an opportunity to cross-examine the person who took Donald Jarmon's fingerprints.

The U.S. Court of Appeals for the Eight Circuit held, "the fingerprint cards were created as part of a routine booking procedure and not in anticipation of litigation" and are therefore business records admissible under FRE 803(6). *United States v. Williams*, 8th Cir., No. 12-3437, 7/11/13

Calendar

UTAH PROSECUTION COUNCIL AND OTHER LOCAL CLE TRAININGS

September 11-13	FALL PROSECUTORS' TRAINING CONFERENCE *The annual CLE event for all Utah prosecutors*	Riverwoods Logan, UT
October 16-18	GOVERNMENT CIVIL PRACTICE CONFERENCE *CLE for civil side attorneys from counties and cities*	Zion Park Inn Springdale, UT
November 20-22	ADVANCED TRIAL SKILLS COURSE *For felony prosecutors with 4+ years of prosecution experience*	Hampton Inn West Jordan, UT
22 dates and locations around the country	INVESTIGATION AND PROSECUTION OF MORTGAGE FRAUD AND VACANT PROPERTY CRIME *This 2 day course will be held in 22 different locations throughout the country during 2013* Flyer Registration Lodging Scholarship Application	
July 10-12	SPECIAL OFFENSES Agenda Registration Summary *Domestic Violence, Stalking, Sexual Assault for the Prosecution Team*	Topeka, KS

NATIONAL DISTRICT ATTORNEYS ASSOCIATION COURSES* AND OTHER NATIONAL CLE CONFERENCES

22 dates and locations around the country	INVESTIGATION AND PROSECUTION OF MORTGAGE FRAUD AND VACANT PROPERTY CRIME *This 2 day course will be held in 22 different locations throughout the country during 2013* Flyer Full Info Lodging Scholarship Application	
September 9-13	PROSECUTING DRUG CASES Summary *NDAA's popular course for narcotics prosecutors and investigators.*	Las Vegas, NV
See the table	HITTING THE MARK: *For prosecutors, law enforcement officers, and allied professionals that are engaged in the prevention, investigation, and prosecution of criminal street gangs, violent felons and firearms perpetrators.*	

September 19-20	Detroit, MI	Flyer	Registration
September 23-24	South Bend, IN	Flyer	Registration
September 26-27	Muskogee, OK	Flyer	Registration

September 23-27	STRATEGIES FOR JUSTICE Registration Summary *Advanced Investigation and Prosecution of Child Abuse and Exploitation*	Atlanta, GA

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October 7-9	MANAGING THE GOVERNMENT ATTORNEY'S OFFICE	Summary	Agenda	Registration	East Lansing, MI
November 4-8	childPROOF *Advanced Trial Advocacy on Abusive Head Trauma cases for Child Abuse Prosecutors*	Summary	Registration		Santa Fe, NM

* For a course description, click on the "Summary" link after the course title. If an agenda has been posted there will also be an "Agenda" link. Registration for all NDAA courses is now on-line. To register for a course, click on the "Register" link. If there are no links, that information has yet to be posted by NDAA.