

Opinions for the week of February 1 - February 5, 2016

USA v. Aaron Thompson No. 15-2008

Argued December 16, 2015 — Decided February 1, 2016

Case Type: Criminal

Western District of Wisconsin. No. 3:14-CR-00090-1 — **William M. Conley**, *Chief Judge*.

Before MANION, KANNE, and WILLIAMS, *Circuit Judges*.

KANNE, Circuit Judge. An informant working for a drug task force bought crack from Aaron Thompson at the apartment where Thompson was staying. The informant was equipped with two hidden audio-video recording devices that captured the transaction. Thompson moved to suppress the video recordings because, he said, the surreptitious recordings constituted an unlawful search in violation of the Fourth Amendment. The district court disagreed on the ground that Thompson had invited the informant into the apartment, thus forfeiting his expectation of privacy as to anything he voluntarily disclosed. For the reasons that follow, the judgment of the district court is affirmed.

USA v. Titan International, Inc. No. 14-3789

Argued September 21, 2015 — Decided February 1, 2016

Case Type: Civil

Central District of Illinois. No. 14-C-3263 — **Richard Mills**, *Judge*.

Before POSNER, WILLIAMS, and SYKES, *Circuit Judges*.

SYKES, Circuit Judge. In February of 2014, the Internal Revenue Service issued an administrative summons to Titan International, Inc., to inspect its 2009 books and records in connection with an audit of the company's 2010 tax return. Titan had taken an operating-loss carry forward in the 2010 tax year for a loss that occurred in 2009. Titan had claimed this same loss in 2009, and the IRS had already audited the company's return for that tax year. Titan refused to comply with the 2014 summons because the IRS had inspected the same records during its audit of the company's 2009 return. Titan's refusal was based on 26 U.S.C. § 7605(b), which provides that "only one inspection of a taxpayer's books of account shall be made for each taxable year unless ... the [Treasury] Secretary ... notifies the taxpayer in writing that an additional inspection is necessary." Because the Secretary had not issued this notice, Titan asserted that the re-inspection of its 2009 records was not permitted. The district court disagreed and ordered Titan to comply with the summons. We affirm.

Arianna Blanche v. USA No. 15-1868

Argued January 12, 2016 — Decided February 2, 2016

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 12 C 7332 — **Thomas M. Durkin**, *Judge*.

Before BAUER and HAMILTON, *Circuit Judges*, and PETERSON, *District Judge*.

BAUER, Circuit Judge. Arianna Blanche ("Arianna"), by her mother and guardian Latoya Blanche ("Latoya"), filed suit against the United States under the Federal Tort Claims Act ("FTCA") for injuries that Arianna sustained during birth. The United States moved for summary judgment, arguing that Arianna's claims were not timely under the FTCA's statute of limitations. The district court granted the motion, and Arianna appealed. For the reasons that follow, we affirm.

USA v. Calvin Brown No. 15-1475

Argued December 3, 2015 — Decided February 2, 2016

Case Type: Criminal

Southern District of Indiana, Terre Haute Division. No. 14-CR-00019 — **Jane E. Magnus-Stinson**, *Judge*.

Before DIANE P. WOOD, *Chief Judge*; DANIEL A. MANION, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

ORDER

The district court convicted Calvin T. Brown at a bench trial of two counts of attempted possession with intent to distribute five grams or more of methamphetamine. He challenges his convictions, arguing that the evidence was insufficient to sustain his convictions and that the attempt statute under which he was convicted, 21 U.S.C. § 846, is void for vagueness... we affirm the district court.

Hans-Peter Baumeister v. Deutsche Lufthansa AG No. 14-2633

Argued November 10, 2015 — Decided February 2, 2016

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 11 C 780 — **Sharon Johnson Coleman**, *Judge*.

Before POSNER, EASTERBROOK, and ROVNER, *Circuit Judges*.

AND

James Varsamis v. Iberia, Lineas Aereas de Espana No. 14-2414

Argued November 10, 2015 — Decided February 2, 2016

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 11 C 775 — **Thomas M. Durkin**, *Judge*.

Before POSNER, EASTERBROOK, and ROVNER, *Circuit Judges*.

POSNER, *Circuit Judge*. It is not uncommon for the airline that sells the tickets for an international flight to arrange for another airline to provide service over part of the route. Sometimes that other airline—the bridge carrier, we'll call it—experiences delay in its segment of the flight, and if substantial the delay may entitle the passengers to damages. The question presented by these two appeals is in what circumstances the bridge carrier is liable for those damages, and in what circumstances the originating carrier, which sold the tickets, is liable. In both cases the plaintiffs sued on behalf of a class, but the suits were dismissed at the summary judgment stage before any classes were certified... The judgments in both cases are AFFIRMED.

Robert Tatum v. USA No. 15-3291

Submitted February 3, 2016 — Decided February 3, 2016

Case Type: Prisoner

Eastern District of Wisconsin. No. 15-CV-00453 — **Rudolph T. Randa**, *Judge*.

Before DANIEL A. MANION, *Circuit Judge*; ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F.

HAMILTON, *Circuit Judge*.

ORDER

Robert Tatum, a Wisconsin inmate, sued the United States demanding redress for all descendants of persons brought from Africa as slaves before the Civil War. The district court dismissed the suit without prejudice at screening, see 28 U.S.C. § 1915A, and we affirm that decision.

Trina L. Carpenter v. PNC Bank No. 15-2732

Submitted February 3, 2016 — Decided February 3, 2016

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 15 C 6135 — **Rebecca R. Pallmeyer**, *Judge*.

Before DANIEL A. MANION, *Circuit Judge*; ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F.

HAMILTON, *Circuit Judge*.

ORDER

Trina Carpenter brought this federal suit to challenge the validity of a recent foreclosure judgment entered against her in state court. The district court dismissed her suit at screening for lack of subject-matter jurisdiction. We affirm.

Celia Jarvis v. Carolyn Colvin No. 15-2712

Submitted February 3, 2016 — Decided February 3, 2016

Case Type: Civil

Southern District of Indiana, Indianapolis Division. No. 1:14-cv-1917-WTL-DML — **William T. Lawrence**, *Judge*.

Before DANIEL A. MANION, *Circuit Judge*;ILANA DIAMOND ROVNER, *Circuit Judge*;DAVID F. HAMILTON, *Circuit Judge*.

ORDER

Celia Jarvis appeals the dismissal, for lack of subject-matter jurisdiction, of her suit under 42 U.S.C. § 405(g) seeking judicial review of the Social Security Administration's decision denying her application for disability insurance benefits. We affirm.

USA v. Othieno Lucas No. 15-2672

Submitted February 3, 2016 — Decided February 3, 2016

Case Type: Criminal

Central District of Illinois. No. 06-20028-001 — **James E. Shadid**, *Chief Judge*.

Before DANIEL A. MANION, *Circuit Judge*;ILANA DIAMOND ROVNER, *Circuit Judge*;DAVID F. HAMILTON, *Circuit Judge*.

ORDER

Othieno Lucas appeals from an order reducing by 18 months his sentence for possessing with intent to distribute crack cocaine. See 18 U.S.C. § 3582(c)(2); U.S.S.G. § 1B1.10(d); U.S.S.G. supp. to app. C., amend. 782 (2014). Lucas argues that the district court should have reduced his sentence even further, but we conclude that the court acted within its discretion in declining to do so. Thus we affirm.

USA v. Lawrence McCarroll No. 15-2492

Argued January 27, 2016 — Decided February 3, 2016

Case Type: Criminal

Northern District of Illinois, Eastern Division. No. 95 CR 48-1 — **John J. Tharp, Jr.**, *Judge*.

Before POSNER, KANNE, and HAMILTON, *Circuit Judges*.

PER CURIAM. Lawrence McCarroll moved under 18 U.S.C. § 3582(c)(2) for a reduced sentence based on Amendments 782 and 788 to the sentencing guidelines, which retroactively lowered by 2 the base offense level for his drug crimes. The district court denied his motion because, despite the 2-level reduction, McCarroll's guidelines imprisonment range remains unchanged and he is therefore ineligible for relief. McCarroll challenges that decision, which we affirm.

USA v. Timothy Durham No. 15-2474

Submitted January 13, 2016 — Decided February 3, 2016

Case Type: Criminal

Southern District of Indiana, Indianapolis Division. No. 1:11CR00042-1 — **Jane Magnus-Stinson**, *Judge*.

Before MICHAEL S. KANNE, *Circuit Judge*; DIANE S. SYKES, *Circuit Judge*; J. PHIL GILBERT, *District Judge*.

ORDER

Timothy Durham, James Cochran, and Rick Snow operated a massive Ponzi scheme resulting in losses of more than \$200 million to thousands of victims. The three men were convicted on multiple counts of conspiracy, securities fraud, and wire fraud, and received lengthy sentences. In a previous appeal, we affirmed their convictions and sentences in all respects except one: we vacated two of Durham's ten counts of conviction and remanded for resentencing "without those counts in the mix."... On remand Durham attempted to reopen the district court's previous loss-amount calculation, see U.S.S.G. §2B1.1, which had been challenged and explicitly affirmed in the earlier appeal, Durham I, 766 F.3d at 686–88. The judge declined to revisit the matter because the loss amount was conclusively fixed in Durham I and was now law of the case. The judge found that Durham's final offense level of 47—above the top level of 43 under the Sentencing Guidelines—remained the same without the two vacated counts "in the mix." Indeed, the probation office prepared a new presentence report, but the guidelines calculations were unchanged. After reweighing the sentencing factors under 18 U.S.C. § 3553, the judge reimposed the same sentence: 50 years in prison. Durham again appeals, arguing primarily that he was entitled to reopen the loss-amount calculation at resentencing... **AFFIRMED.**

Michael Houston v. USA No. 15-2411

Argued January 26, 2016 — Decided February 3, 2016

Case Type: Criminal

Northern District of Illinois, Eastern Division. No. 14 C 1042 — **Jorge Alonso**, *Judge*.

Before DIANE P. WOOD, *Chief Judge*; WILLIAM J. BAUER, *Circuit Judge*; RICHARD A. POSNER, *Circuit Judge*.

ORDER

Michael Houston is permanently disfigured as a result of a severe skin reaction called Stevens-Johnson Syndrome (SJS), which he developed after taking allopurinol, a prescription drug used to treat gout. Houston brought tort claims in state court against the federally funded health clinic where he was treated for gout, the physician's assistant who prescribed allopurinol, and the drug manufacturer. The United States removed the case to federal court and substituted itself as the defendant in place of the federal health care providers, as the Federal Tort Claims Act provides. See 28 U.S.C. § 2679. The United States then moved to dismiss Houston's claims against the United States for failing to exhaust his administrative remedies. See 28 U.S.C. § 2675(a). The drug manufacturer moved to dismiss, too, arguing that all of Houston's state-tort claims against it are preempted by federal drug regulations. The district court granted the defendants' motions and dismissed the case with prejudice. Because the defects in Houston's amended complaint cannot be cured, we affirm.

David Johnson v. State of Illinois Court of Claims No. 15-2186

Submitted February 3, 2016 — Decided February 3, 2016

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 15 C 3096 — **Edmond E. Chang**, *Judge*.

Before DANIEL A. MANION, *Circuit Judge*; ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

ORDER

David Johnson appeals the dismissal of his civil rights action brought against the Illinois Court of Claims, its judges, and its clerks, alleging that the tribunal violated his right to due process when it denied his motion for a default judgment in a suit before it. We affirm.

USA v. Christopher M. Rachell No. 15-2185

Submitted February 3, 2016 — Decided February 3, 2016

Case Type: Criminal

Southern District of Indiana, Indianapolis Division. No. 1:12CR00185-003 — **Sarah Evans Barker**,
Judge.

Before DANIEL A. MANION, *Circuit Judge*;ILANA DIAMOND ROVNER, *Circuit Judge*;DAVID F.
HAMILTON, *Circuit Judge*.

ORDER

Christopher Rachell pleaded guilty to conspiring to possess and distribute marijuana, see 21 U.S.C. §§ 846, 841(a), and he was sentenced to 120 months' imprisonment. Rachell's plea agreement includes an appeal waiver, but he filed a notice of appeal anyway. His appointed counsel represents that the appeal is frivolous and seeks to withdraw... We GRANT counsel's motion to withdraw and DISMISS the appeal.

Priest Johnson v. Denise Symdon No. 15-2173

Submitted February 3, 2016 — Decided February 3, 2016

Case Type: Prisoner

Eastern District of Wisconsin. No. 14-CV-879 — **Nancy Joseph**, *Magistrate Judge*.

Before DANIEL A. MANION, *Circuit Judge*;ILANA DIAMOND ROVNER, *Circuit Judge*;DAVID F.
HAMILTON, *Circuit Judge*.

ORDER

Priest Johnson appeals from the district court's denial of his petition under 28 U.S.C. § 2254 for a writ of habeas corpus, in which he challenged several conditions of community supervision that were imposed before his parole was revoked. Because Johnson was reincarcerated and is no longer subject to those conditions, we vacate and remand with instructions to dismiss the case as moot.

USA v. Frank Billups No. 15-2157

Submitted February 3, 2016 — Decided February 3, 2016

Case Type: Criminal

Central District of Illinois. No. 14-cr-40030-001 — **Sara Darrow**, *Judge*.

Before DANIEL A. MANION, *Circuit Judge*;ILANA DIAMOND ROVNER, *Circuit Judge*;DAVID F.
HAMILTON, *Circuit Judge*.

ORDER

Frank Billups was paroled after serving three years in state prison for armed robbery. Eight days after his release he was arrested again, this time for possessing a gun. Billups, who was eighteen years old at the time, had been riding with friends in a car that police were following. The car came to an abrupt stop, and both Billups and the driver fled. Officers quickly caught them, and one of the officers retraced Billups's steps and found a loaded revolver with a partially obliterated serial number lying on top of freshly fallen snow. At the scene Billups denied possessing the gun, but ultimately he pleaded guilty in federal court to possessing a firearm as a felon, 18 U.S.C. § 922(g)(1). The district court sentenced him to 57 months' imprisonment, the bottom of the guidelines range, and 2 years' supervised release. Billups has filed a notice of appeal, but his newly appointed lawyer asserts that the appeal is frivolous and seeks to withdraw... we GRANT counsel's motion to withdraw and DISMISS the appeal.

Janko Jankovic v. Loretta Lynch No. 15-2144

Argued December 9, 2015 — Decided February 3, 2016

Case Type: Agency

Petition for Review of a Decision of the Board of Immigration Appeals No. A079-929-194
Before EASTERBROOK and HAMILTON, *Circuit Judges*, and PALLMEYER, *District Judge*.

EASTERBROOK, Circuit Judge. Janko Jankovic, a citizen of Bosnia and Herzegovina, was admitted to the United States as a refugee in 2003 but has been ordered removed on the ground that he obtained that status by fraud... The petition for review is dismissed for want of jurisdiction.

Timothy Platt v. CitiMortgage, Inc. No. 15-2126

Submitted February 3, 2016 — Decided February 3, 2016

Case Type: Civil

Southern District of Indiana, Indianapolis Division. No. 1:14-CV-02088-JMS-TAB — **Jane E. Magnus-Stinson**, *Judge*.

Before DANIEL A. MANION, *Circuit Judge*; ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

ORDER

Timothy and Sonia Platt appeal the dismissal of their lawsuit against CitiMortgage, which held and serviced their home mortgage. Their complaint asserts several claims, but the district court concluded that all of those claims are precluded by a judgment in favor of CitiMortgage in its foreclosure suit in Indiana state court. We agree and affirm the judgment.

USA v. Willie Evans, III No. 15-1719

Submitted February 3, 2016 — Decided February 3, 2016

Case Type: Criminal

Eastern District of Wisconsin. No. 14-Cr-167 — **Rudolph T. Randa**, *Judge*.

Before DANIEL A. MANION, *Circuit Judge*; ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

ORDER

Just days before Willie Evans was due to begin serving time in federal prison, he contacted an FBI agent and said that a gang member had hidden an assault rifle in his cousin's backyard and would be retrieving it later that day. A district judge had revoked Evans's supervised release for a 2009 federal conviction after he was arrested in early 2014 and charged with state offenses. Those charges were still pending, and Evans was hoping that, by appearing to cooperate, he could persuade state prosecutors to be lenient. Surveillance agents watched the cousin's house, but no one came for the gun. The FBI discovered later that, contrary to his story, Evans had learned from his cousin that the gang member's rifle was in her house, so he had taken the gun himself and hidden it outdoors with the idea of luring the gang member to retrieve it with the FBI watching. Evans pleaded guilty to lying to the FBI, 18 U.S.C. § 1001(a)(2), and the district court sentenced him to an additional 30 months' imprisonment and 3 years' supervised release. Evans filed a notice of appeal, but his appointed lawyer contends that the appeal is frivolous and seeks to withdraw... Counsel's motion to withdraw is GRANTED, and the appeal is DISMISSED.

Terry Deets v. Massman Construction Co. No. 15-1411

Argued October 6, 2015 — Decided February 3, 2016

Case Type: Civil

Southern District of Illinois. No. 3:13-CV-883-NJR-PMF — **Nancy J. Rosenstengel**, *Judge*.

Before WOOD, *Chief Judge*, and POSNER and WILLIAMS, *Circuit Judges*.

WILLIAMS, Circuit Judge. Terry Deets, a white construction worker, appeals the grant of summary judgment for his former employers in this suit asserting racial discrimination under Title VII, 42 U.S.C. § 2000e-2, and 42 U.S.C. § 1981. Because there is a factual dispute about the basis for Deets's layoff, we reverse the district court's grant of summary judgment and remand the case for further proceedings.

Matthew Bonnstetter v. City of Chicago No. 14-2977 & **Garrett Fishwick v. City of Chicago** No. 14-3573

Argued January 4, 2016 — Decided February 3, 2016

Northern District of Illinois, Eastern Division. No. 13 C 4834 — **Virginia M. Kendall**, *Judge*, & No. 14 C 2553 — **Harry D. Leinenweber**, *Judge*.

Before BAUER, ROVNER, and WILLIAMS, *Circuit Judges*.

BAUER, Circuit Judge. Eight plaintiffs-appellants in two cases, consolidated here on appeal (collectively the "Applicants"), applied for the position of police officer with the Chicago Police Department ("CPD"). All of the Applicants were, for various reasons, disqualified from consideration for the position. They then sued the City of Chicago (the "City"), claiming violations of the City's 2011 Hiring Plan (the "Hiring Plan"), violations of the Settlement Order and Accord entered in *Shakman v. Democratic Organization of Cook Co.*, 481 F. Supp. 1315 (N.D. Ill. 1979) (the "Shakman Accord"), and equal protection violations under the Illinois Constitution. In both cases, the district courts granted the defendants-appellees' motions to dismiss under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim. All of the Applicants have limited their appeals to the dismissals of their Shakman claims. For the following reasons, we affirm the dismissals in both cases.

USA v. Alex Campbell No. 15-2358

Submitted February 3, 2016 — Decided February 4, 2016

Case Type: Criminal

Northern District of Illinois, Eastern Division. No. 10 CR 0026 — **Robert W. Gettleman**, *Judge*.

Before DANIEL A. MANION, *Circuit Judge*; ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

ORDER

Alex Campbell preyed on young women who were in the United States unlawfully, first gaining their trust through promises of immigration benefits and financial protection, and then coercing them to work for him as prostitutes. A jury convicted him on eleven counts of obtaining labor and services of others by force, serious harm, and abuse, 18 U.S.C. § 1589; concealing, harboring, and shielding undocumented aliens for commercial advantage, 8 U.S.C. § 1324(a)(1)(A)(iii), (a)(1)(A)(v)(II), and (a)(1)(B)(i); concealing identity and immigration documents, 18 U.S.C. § 1592(a); sex trafficking, 18 U.S.C. § 1591(a); and extortion, 18 U.S.C. § 1951(a). The district court—after granting Campbell's motion for acquittal on one count of concealing immigration documents—sentenced him to life in prison. We affirmed his convictions and sentence on direct appeal, see *United States v. Campbell*, 770 F.3d 556 (7th Cir. 2014), and now Campbell appeals from the denial of a motion for a new trial. That motion is based on what Campbell says is new evidence that, before one of the women met him, she had entered a sham marriage in hopes of gaining residency. We agree with the district court that this accusation lacks an evidentiary foundation and, thus, could not warrant a new trial... AFFIRMED.

USA v. Larry Cochran No. 15-2309

Submitted December 22, 2015 — Decided February 4, 2016

Case Type: Criminal

Northern District of Indiana, Hammond Division. No. 2:06 CR 114 — **James T. Moody**, *Judge*.

Before DIANE P. WOOD, *Chief Judge*; JOEL M. FLAUM, *Circuit Judge*; DANIEL A. MANION, *Circuit Judge*.

ORDER

More than six years ago, we affirmed Larry Cochran's conviction and 405-month prison sentence for possessing with intent to distribute crack cocaine. *United States v. Cochran*, 309 F. App'x 2 (7th Cir. 2009). Since then, Cochran has pursued multiple collateral challenges to his sentence, and we have warned him that more of the same could result in sanctions. See *Cochran v. United States*, No. 12-2348 (7th Cir. June 28, 2012). Despite that warning, however, Cochran filed yet another attack on his sentence, which he characterized as a motion to correct "clerical errors" in his presentence report. The district court denied the motion, recognizing that Cochran was alleging substantive errors, not clerical ones. We affirm that decision.

Kyle Carson v. ALL Erection & Crane Rental Co. No. 14-3243

Argued May 22, 2015 — Decided February 3, 2016

Case Type: Civil

Southern District of Indiana, Indianapolis Division. No. 1:12-cv-1637-WTL-DML — **William T. Lawrence**, *Judge*.

Before EASTERBROOK, WILLIAMS, and HAMILTON, *Circuit Judges*.

HAMILTON, *Circuit Judge*. Plaintiff Kyle Carson was severely injured at work when he fell underneath the tread of a crane that his employer, White Construction, leased from defendant ALL Erection & Crane Rental Corporation (ALL). Carson sued ALL for negligence in Indiana state court, and ALL removed the case to federal court based on diversity jurisdiction under 28 U.S.C. § 1332. Carson contends that ALL had a duty to conduct a reasonable inspection of the crane upon delivering it to White Construction, that ALL breached this duty by failing to conduct such an inspection, and that this breach was the proximate cause of his injury. The district court granted summary judgment for defendant ALL, finding that no reasonable jury could return a verdict for plaintiff Carson because there is no evidence in the record that ALL's alleged breach was the proximate cause of Carson's injury. We affirm.

Lionel Bordelon v. Board of Education of the City of Chicago No. 14-3240

Argued November 2, 2015 — Decided February 3, 2016

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 11 C 08205 — **Edmond E. Chang**, *Judge*.

Before BAUER, POSNER, and KANNE, *Circuit Judges*.

KANNE, *Circuit Judge*. On January 28, 2011, the Local School Council in charge of Kozminski Community Academy voted to not renew the contract of long-tenured principal Lionel Bordelon. Bordelon, who was 63 at the time, believed that his supervisor and Chief Area Officer for the Board of Education of the City of Chicago, Dr. Judith Coates, manipulated and exercised undue influence over the Council's decision. Bordelon alleges that Coates did so because of his age, which, if true, would violate the Age Discrimination in Employment Act, 29 U.S.C. § 623. The district court granted summary judgment to the Board on Bordelon's claim of age discrimination. We affirm.

USA v. Lawrence Hall No. 15-2118

Submitted February 3, 2016 — Decided February 4, 2016

Case Type: Criminal

Northern District of Illinois, Eastern Division. No. 11-CR-00230-2 — **Amy J. St. Eve**, *Judge*.

Before DANIEL A. MANION, *Circuit Judge*; ILANA DIAMOND ROVNER, *Circuit Judge*; DAVID F. HAMILTON, *Circuit Judge*.

ORDER

This is a direct appeal from a resentencing following our remand in *United States v. Hall*, No. 14-1230 (7th Cir. Feb. 18, 2015). For several years the appellant, Lawrence Hall, had helped his wife bilk elderly Chicagoans out of hundreds of thousands of dollars. Hall's wife, posing as a fraud investigator, would call and convince the victims to turn over their debit cards, credit cards, and currency to one of several paid "runners" recruited by Hall. He would then drive the runners to merchants and direct them to buy merchandise with the stolen cards. After investigators uncovered the scheme, Hall pleaded guilty to wire fraud and aggravated identity theft. See 18 U.S.C. §§ 1028A(a)(1), 1343. The district court initially sentenced him to consecutive prison terms of 96 months for the fraud conviction and 24 months for identify theft. Hall appealed, challenging only certain conditions of supervised release, and at the parties' joint request we remanded for resentencing. At Hall's resentencing the district court incorporated its rulings from the original sentencing. The court then shaved four months off Hall's total imprisonment by shortening the fraud sentence to 92 months. The court imposed only those conditions of supervised release jointly agreed by the parties, with the exception of a condition allowing unannounced visits by Hall's probation officer. This time Hall's appointed attorney asserts that the defendant's appeal is frivolous and seeks to withdraw... we GRANT counsel's motion to withdraw and DISMISS the appeal.

Alejandro Noboa v. Barcelo Corporacion Empresarial No. 15-2001

Argued January 19, 2016 — Decided February 4, 2016

Case Type: Civil

Northern District of Illinois, Eastern Division. No. 13 C 8966 — **Joan H. Lefkow**, *Judge*.
Before EASTERBROOK, ROVNER, and SYKES, *Circuit Judges*.

EASTERBROOK, Circuit Judge. While living in Illinois, Vanessa Noboa used the Orbitz website to book and pay for a stay at the Barcelo Los Cabos Palace Deluxe in Mexico. After arriving at the hotel, Noboa signed up in its lobby for an ecotour operated by Rancho Carisuva away from the hotel's premises. During that tour, the all-terrain vehicle that Noboa was riding overturned, and she died from her injuries. This suit, under the international diversity jurisdiction of 28 U.S.C. §1332(a)(2), seeks damages from Rancho Carisuva plus Barcelo Corporacion Empresarial, a Spanish corporation. The complaint alleges that Barcelo owned and operated the hotel; Barcelo denies this and maintains that it has no ownership interest, direct or indirect, in the Barcelo Los Cabos Palace Deluxe (now known as Hyatt Ziva Los Cabos). The district court did not decide whether Barcelo Corporacion Empresarial has any connection to the hotel Noboa booked - or whether either defendant is culpable in her death - because it concluded that neither defendant is subject to personal jurisdiction in Illinois... AFFIRMED.

Lianne Summers v. Carolyn Colvin No. 15-1819

Submitted December 22, 2015 — Decided February 4, 2016

Case Type: Civil

Western District of Wisconsin. No. 12-cv-22-wmc — **William M. Conley**, *Chief Judge*.

Before DIANE P. WOOD, *Chief Judge*; JOEL M. FLAUM, *Circuit Judge*; DANIEL A. MANION, *Circuit Judge*.

ORDER

Lianne Summers appeals from a judgment upholding the Social Security Administration's denial of her applications for Disability Insurance Benefits and Supplemental Security Income... AFFIRMED.

Anna Robinson v. Cynthia Hagan No. 14-3585

Argued September 29, 2015 — Decided February 4, 2016

Case Type: Bankruptcy from District Court

Southern District of Illinois. No. 3:13-cv-01239-SMY — **Staci M. Yandle**, *Judge*.
Before WOOD, *Chief Judge*, and EASTERBROOK and RIPPLE, *Circuit Judges*.

RIPPLE, Circuit Judge. Anna F. Robinson filed a Chapter 7 bankruptcy petition in the Southern District of Illinois seeking a discharge of unsecured debts. Ms. Robinson claimed an exemption for a rare, first edition Book of Mormon under the Illinois personal property exemption statute, 735 ILCS 5/12-1001(a), which provides an exemption for a bible. The bankruptcy court denied the exemption, but the district court re-versued. Because we agree with the district court that the plain wording of the Illinois personal property exemption statute allows the exemption for Ms. Robinson's Book of Mormon, we affirm the district court's judgment.

Erik Solano v. USA No. 15-1290

Argued December 9, 2015 — Decided February 5, 2016

Case Type: Criminal

Northern District of Indiana, South Bend Division. No. 3:13-cv-327 — **Jon E. DeGuilio**, *Judge*.
Before EASTERBROOK and HAMILTON, *Circuit Judges*, and PALLMEYER, *District Judge*.

PALLMEYER, District Judge. Erik Solano appeals from an order of the district judge dismissing his 28 U.S.C. § 2255 motion to vacate his sentence. Solano, who waived the right to appeal from his sentence, nevertheless asserts that trial counsel's failure to file an appeal at his request constitutes ineffective assistance in violation of the Sixth Amendment. The district court dismissed his petition as untimely, but we are free to affirm on any ground presented in the record. *United States v. Flores-Sandoval*, 94 F.3d 346, 349 (7th Cir. 1996) (citing *United States v. Mustread*, 42 F.3d 1097, 1104 (7th Cir. 1994)). As the government argued below, the Sixth Amendment does not require an attorney to accede to a defendant's request to file an appeal where the defendant has knowingly and voluntarily waived that right as part of a valid plea agreement. Accordingly, we affirm the dismissal of Solano's § 2255 petition.

USA v. Kevin Trudeau No. 14-1869

Argued February 24, 2015 — Decided February 5, 2016

Case Type: Criminal

Northern District of Illinois, Eastern Division. No. 10 CR 886 — **Ronald A. Guzmán**, *Judge*.
Before EASTERBROOK, ROVNER, and SYKES, *Circuit Judges*.

SYKES, Circuit Judge. Kevin Trudeau spent his career hawking miracle cures and self-improvement systems of dubious efficacy. When the Federal Trade Commission sued him for violating consumer-protection laws, Trudeau agreed to a consent decree in which he promised not to misrepresent the content of his books in TV infomercials. A few years later, Trudeau published *The Weight Loss Cure "They" Don't Want You to Know About* and promoted it in three infomercials. The ads said the weight-loss protocol was "simple" and "inexpensive," could be completed at home, and did not require any food restrictions or exercise. The book, on the other hand, described an arduous regimen mandating prescription hormone injections and severe dietary and lifestyle constraints. The district court imposed a civil contempt sanction and then issued an order to show cause why Trudeau should not be held in criminal contempt and face a penalty of up to six months' imprisonment. At Trudeau's request the case was transferred to a different judge. The new judge issued an amended show-cause order that removed the six-month penalty cap. Trudeau was convicted and sentenced to ten years in prison. On appeal Trudeau leaves no stone unturned. His primary argument concerns an alleged violation of the Speedy Trial Act. See 18 U.S.C. §§ 3161 et. seq. More than 70 non-excludable days elapsed between the date the government agreed to prosecute the first show-cause order and the commencement of trial under the second show-cause order. Trudeau moved to dismiss for violation of the Act. The district judge denied this motion. He was right to do so. The Act applies only to crimes punishable by more than six months' imprisonment. Because the first show-cause order capped the potential penalty at six months, the Act did not apply. The second show-cause order removed the cap, triggering the Act's 70-day clock, but

Trudeau's trial began within the mandatory time frame counting from that date. There was no Speedy Trial Act violation. Trudeau raises an array of other issues as well: He challenges the jury instruction on "willfulness," the sufficiency of the evidence, two evidentiary rulings, and the reasonableness of his sentence. These arguments, too, are meritless. We affirm the contempt conviction and sentence.

Only the text of the opinions is used. No editorial comment is added. For back issues or to send a comment, please contact [Sonja Simpson](#).