**Opinions for the week of May 25 – May 29, 2020**

**USA v. Warren Barr, III** No. 19-1238
Argued December 4, 2019 — Decided May 26, 2020
Case Type: Criminal
Northern District of Illinois, Eastern Division. No. 14-CR-287 — **Charles R. Norgle**, *Judge*.
Before MANION, KANNE, and BARRETT, *Circuit Judges.*

KANNE, *Circuit Judge.* In 2014, the federal government charged Warren Barr with federal crimes for his role in a fraudulent real-estate-selling scheme in Chicago. But when law-enforcement officers went to arrest Barr, they discovered he was living in Saudi Arabia. For months, FBI agents attempted to extradite Barr to the United States. Despite this effort, and before the agents could get to Barr, Saudi Arabian officials detained him for unrelated conduct. Thereafter, Barr spent several months in a Saudi Arabian prison—and once he was released, federal agents brought him back to the United States to face the federal charges against him. Barr pled guilty to making false statements to a financial institution, and he then filed a variety of motions: he asked the district court to allow more time for newly retained counsel to obtain government clearance and review classified materials; to dismiss the indictment; and to withdraw his guilty plea. The district court denied these motions and entered an order finding Barr guilty…..Barr alleges a long list of errors and requests that we vacate his conviction and sentence or remand his case for resentencing by a different district judge. But we find no error in the district court's handling of this case. We therefore AFFIRM Barr's conviction, sentence, and the district court's order denying Barr's motion for recusal.

**USA v. Eugene Falls** No. 19-3050
Submitted May 13, 2020 — Decided May 26, 2020
Case Type: Criminal
Southern District of Illinois. No. 3:05-cr-30027-3 — **Staci M. Yandle**, *Judge*.
Before FLAUM, HAMILTON and ST. EVE, *Circuit Judges*

FLAUM, *Circuit Judge.* Eugene Falls appeals the revocation of his supervised release. He argues that the district court erred during his revocation hearing by not conducting an explicit "interest of justice" analysis under Federal Rule of Criminal Procedure 32.1(b)(2)(C) before admitting an audio recording of an interview during which he confessed to the violation in question. We held in United States v. Jordan that when a district court is deciding whether to admit hearsay at a revocation hearing, it must explicitly conduct an interest-of-justice analysis under Rule 32.1(b)(2)(C) by balancing the defendant's interest in confrontation against the government's stated reasons for not making the declarant available for cross-examination. 742 F.3d 276, 280 (7th Cir. 2014). Jordan does not apply here, however, because the probative statements in the audio recording were Falls's own non-hearsay statements. Falls suggests that we should nevertheless extend Jordan to require an explicit application of Rule 32.1(b)(2)(C)'s interest-of-justice balancing test given his interest in questioning his interviewing officer about the nature and circumstances of his interview. Falls has not shown, however, that his interviewing officer was an "adverse witness" that Rule 32.1(b)(2)(C) entitled him to question subject to an interest-of-justice determination. Accordingly, we affirm.

**USA v. Theodore Wojtas, Jr. and David W. Belconis** Nos. 18-2737 & 18-3348
Argued and submitted May 22, 2020 - Decided May 27, 2020
Case Type: Criminal
Northern District of Illinois, Eastern Division. No. 15 CR 399 **Manish S. Shah,** *Judge.*
Before WOOD, *Chief Judge*, BAUER and EASTERBROOK, *Circuit Judges*

**ORDER**
…. A jury convicted Wojtas, David Belconis, and Karin Ganser of several fraud-related crimes. Ganser has not appealed. Wojtas appeals only his sentence. Belconis contends on appeal that the evidence does not support his convictions.…Belconis also contends that the district court constructively amended the

indictment with respect to five counts of the charges against him. But a jury could not agree on a verdict with respect to these counts, all of which the prosecutor dismissed. Having prevailed outright on these counts, Belconis is not entitled to contend that he should have won for a different reason. AFFIRMED

**USA v. Maurice Wither** No. 17-3448
Argued September 6, 2019 — Decided May 28, 2020
Case Type: Criminal
Western District of Wisconsin No. 3:16-cr-00005 — **William M. Conley,** *Judge.*
Before EASTERBROOK, KANNE, and BRENNAN, *Circuit Judges*.

BRENNAN, *Circuit Judge.* Maurice Withers made a living trafficking women and girls for sex. After months of abuse, numerous victims were identified by law enforcement. Withers was arrested and charged with nine counts of sex trafficking. As the case proceeded to trial, the government proposed jury instructions on four of those counts that would have allowed Withers to be found guilty if he either knew or recklessly disregarded that force, threats of force, or coercion would be used to cause the women to engage in commercial sex acts. The "recklessly disregarded" mens rea element was absent, however, from the superseding indictment against Withers. The district court ruled, and the parties agreed, that the jury instructions would not include that phrase. Yet at trial the court's instructions included this phrase, and neither the court nor the parties recognized the error. A jury found Withers guilty on all counts. On appeal Withers challenges the four convictions that included the inaccurate instructions, arguing the jury was improperly allowed to consider a lesser mental state. While we agree those instructions were plainly wrong, we conclude that the error did not affect Withers' substantial rights or otherwise prejudice his trial, so we affirm.

**Ronald Barrow v. Wexford Health Sources, Inc** No. 18-3562
Submitted May 28, 2020 - Decided May 29, 2020
Case Type: Prisoner
Southern District of Illinois. No. 3:14-CV-800-NJR-DGW **Nancy J. Rosenstengel,** *Chief Judge.*
Before EASTERBROOK, SYKES, and ST. EVE, *Circuit Judges*

**ORDER**
Ronald Barrow, formerly an inmate at Menard Correctional Center, sued two prison doctors and their employer, Wexford Health Services, Inc., for deliberate indifference to his medical needs. After discovery, the district court entered summary judgment for Wexford, but several counts against the doctors proceeded to trial. The jury found in favor of the defendants, and Barrow appeals. We affirm in all respects.

**Shafia Jones v. Jon Noble** No. 19-1859
Submitted May 28, 2020 - Decided May 29, 2020
Case Type: Prisoner
Eastern District of Wisconsin. No. 17-CV-1253 **David E. Jones,** *Magistrate Judge.*
Before EASTERBROOK, SYKES, and ST. EVE, *Circuit Judges*

**ORDER**
Shafia Jones, an African-American inmate at a Wisconsin state prison, maintains that two prison officials violated her equal protection rights when they delayed her release from a restrictive housing unit after she was found not guilty of a disciplinary charge. The district court entered summary judgment for the defendants, concluding that there was no evidence that Jones had been treated differently from any similarly situated inmate or that the defendants had acted with discriminatory intent. We affirm.

**Haiyan Chen v. William Barr** No. 19-2375
Argued March 3, 2020 — Decided May 29, 2020

Case Type: Agency
Petition for Review of an Order of the Board of Immigration Appeals. No. A089-283-398.
Before EASTERBROOK, KANNE, and ST. EVE, *Circuit Judges*.

EASTERBROOK, *Circuit Judge.* Haiyan Chen, a citizen of China, entered the United States without inspection (that is, by stealth) in 2004. She was detected in 2010, and immigration officials opened removal proceedings. The charging document is called a "Notice to Appear," and a form with that caption was dated April 27, 2010. The form did not meet the statutory requirements for a Notice to Appear, however, because it omitted the time and place for a hearing. See 8 U.S.C. §1229(a)(1)(G)(i); *Pereira v. Sessions,* 138 S. Ct. 2105 (2018). Immigration officials sent Chen a separate document, dated July 29, 2010, with that information. Chen appeared as ordered, and many other hearings followed. She asked for asylum, which an immigration judge denied on the ground that 8 U.S.C. §1158(a)(2)(B) gives aliens only one year after entering the United States to request that relief. The Board of Immigration Appeals dismissed her appeal on March 28, 2017, and we denied a petition for review. *Chen v. Sessions,* No. 17-1797 (7th Cir. Jan. 4, 2018) (nonprecedential). In September 2018 Chen filed a motion asking the Board to reopen her case so that she could seek cancellation of re- moval, a remedy available to some aliens who have lived in the United States for a decade….A person who allows a procedural error to lurk in the record until the 10 years have passed, and brings it to light only then, has surrendered any opportunity for judicial relief. The petition for review is denied.

W**illie Bell v. Thomas Dart** No. 19-2451
Submitted May 28, 2020 - Decided May 29, 2020
Case Type: Prisoner
Northern District of Illinois, Eastern Division. No. 19 C 1825 **Manish S. Shah,** *Judge.*
Before EASTERBROOK, SYKES, and ST. EVE*, Circuit Judges*

**ORDER**
Willie Bell, a pretrial detainee at Cook County Jail, sued jail officials for depriving him of water and sanitation for six days. The district court ruled that Bell failed to state a claim. Because in *Hardeman v. Curran,* 933 F.3d 816, 820–21 (7th Cir. 2019), we held that jail detainees denied water and sanitation for three days stated a claim under the Fourteenth Amendment, we vacate the judgment in part and remand.