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### FINDLAW DAILY OPINION SUMMARIES U.S. 1ST CIRCUIT COURT OF APPEALS

Criminal Law & Procedure, Sentencing, Evidence

#### **US v. Navedo-Ramirez, No. 12-2490**

Defendant, an 18-year veteran of the Puerto Rico Police Department (PRPD), appeals her conviction and sentence for aiding and abetting an attempt to possess with intent to distribute five kilograms or more of cocaine and possession of a firearm in furtherance of a drug trafficking crime. Defendant was arrested based on a sting operation that netted a number of corrupt police officers. The conviction and sentence are affirmed, where: 1) the district court did not err in refusing to admit into evidence the testimony of defendant's proffered expert on battered woman syndrome, a co-defendant's prior domestic violence conviction, and defendant's PRPD performance evaluations; and 2) the main focus of a sentencing factor manipulation claim is impropriety on the part of the government, and there is no compelling evidence of impropriety here, much less the "outrageous or intolerable pressure" required for a finding of manipulation; and 3) the facts in this case do not show anything beyond the level of manipulation inherent in any sting operation, and that is not enough to warrant a downward variance on defendant's sentence.

Constitutional Law, Government Law, Transportation

#### **American Freedom Defense Initiative v. Massachusetts Bay Transportation Authority, No. 14-1018**

Defendant Massachusetts Bay Transportation Authority (MBTA) refused to run two advertisements at issue here, each of which concerned a highly charged political issue (the Israeli-Palestinian conflict). The MBTA's advertising guideline restricts the display of advertisements that "demean or disparage" individuals or groups. Plaintiffs challenge the MBTA's advertising policy on First Amendment grounds. Judgment in favor of defendant MBTA is affirmed, where: 1) the application of the guideline to the advertisements at issue here was viewpoint neutral; and 2) the application of the guideline was reasonable in light of the valid purposes *Ridley v. Massachusetts Bay Transportation Authority* held that the guideline serves.

Constitutional Law, Criminal Law & Procedure, Sentencing, White Collar Crime

#### **US v. Carpenter, No. 14-1286**

In 2013, after a new trial and a second jury found defendant guilty of mail and wire fraud in connection with his mishandling of client escrow funds, the 1st circuit reversed a district court order setting aside the verdict, and remanded for sentencing. Prior to sentencing, defendant again moved to have the district court dismiss his indictment, but his motion was denied and the

district court sentenced defendant to 36 months' imprisonment, 3 years' supervised release, and penalties, and ordered forfeiture of over 14 million dollars. Post-sentencing, defendant now directly appeals, contending that the lengthy duration of the criminal proceedings (indictment in September 2004) violated his constitutional and statutory speedy trial rights. The judgment of the district court is affirmed in all respects, where: 1) defendant has not demonstrated prejudice, and combined with the fact that defendant was found guilty by two separate juries, dismissal of the indictment is unwarranted here; 2) the record is clear that the district court balanced counsels' schedules with the public's interest in a speedy trial, and thus its decision represents a determination that granting a continuance served the "ends of justice"; and 3) the district court was not unreasonable in failing to find that the stock market downturn did not justify a downward sentencing departure.

ERISA, Health Law, Insurance Law

**Dutkewych v. Standard Insurance Company, No. 14-1450**

Defendant insurance company limited plaintiff's long-term disability benefits to 24 months on grounds that plaintiff's stated "chronic Lyme disease" condition satisfied the Limited Conditions Provision of the insurance plan, which limits the plan based on a disability caused or contributed to by mental disorder, substance abuse, or other limited conditions. Applying this provision, defendant terminated plaintiff's benefits completely after 24 months. Plaintiff brought this lawsuit against defendant for unpaid benefits. Summary judgment in favor of defendant is affirmed, where, even if plaintiff was disabled as a result of chronic Lyme disease, the Mental Disorder Limitation nonetheless applies because his mental disorders, regardless of their cause, contributed to his disability.