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U.S. 1ST CIRCUIT COURT OF APPEALS

CRIMINAL LAW & PROCEDURE, HABEAS CORPUS, EVIDENCE

Ortiz-Graulau v. US, No. 12-2188

The district court's denial of the petition for collateral relief challenging petitioner's conviction for child pornography is affirmed, where: 1) the proffered factual testimony concerning the relationship between petitioner and the minor and concerning the specific circumstances surrounding the production of the sexually explicit photographs does not support a lawful defense to whether Ortiz "used" the minor within the meaning of the production statute, and therefore the petition for relief due to ineffective assistance of counsel was properly denied for failing to establish prejudice; 2) any error in the district court's evidentiary rulings excluding the minor's testimony regarding the nature of her relationship with petitioner was harmless; 3) the facts of this case do not make out a claim of unconstitutionality; and 4) despite the difference between the local age of consent and the federal age of majority, petitioner's claim of actual innocence fails.

CIVIL RIGHTS, LABOR & EMPLOYMENT LAW

Hicks v. Napolitano, No. 13-1741

Summary judgment in favor of defendant-Secretary of Homeland Security in an employment discrimination action in which plaintiff claims that the Secretary failed to promote her to the position of Housing Manager in the United States Coast Guard Housing Office on account of her race and gender is affirmed, where: 1) the district court did not abuse its discretion in denying plaintiff's motion to reopen discovery; and 2) plaintiff failed to generate a genuine issue of material fact on the issue of pretext.

CIVIL RIGHTS, LABOR & EMPLOYMENT LAW

Carrero-Ojeda v. Autoridad de Energia Electrica, No. 12-2133

Dismissal of plaintiff's Family and Medical Leave Act (FMLA) action is affirmed, where: 1) plaintiff's complaint does not plausibly support a finding that her termination was causally connected to her requests for FMLA leave, so her retaliation claim fails; 2) plaintiff cannot state a plausible FMLA interference claim; and 3) the district court did not abuse its discretion by not spelling out what should have been obvious based on its resolution of plaintiff's amend-judgment request.

CIVIL PROCEDURE, INJURY & TORT LAW, PUBLIC UTILITIES

Alejandro-Ortiz v. Puerto Rico Electric Power Authority, No. 12-2450

The district court erred in denying defendant's motion for judgment as a matter of law on plaintiff-wife's claims arising out of her husband's injuries from defendant's power line, with which the husband came into contact, where plaintiff-wife's claims are time barred by the Puerto Rico one-year statute of limitations.

CRIMINAL LAW & PROCEDURE, HABEAS CORPUS, EVIDENCE

Hensley v. Roden, No. 13-1147

The district court's denial of a petition for a writ of habeas corpus challenging petitioner's conviction for first degree murder is affirmed, where: 1) the state court's rejection of petitioner's argument that his Sixth Amendment right to confrontation was violated when the trial court admitted the testimony of Dr. Flomenbaum, who was not the medical examiner who performed the victim's autopsy, was not contrary to governing Supreme Court precedent; and 2) petitioner's challenge to the state court's determination that counsel was not deficient for failing to introduce petitioner's medical records fails, because petitioner does not allege factual error, nor does he establish that the state court's application of the Strickland standard was unreasonable.