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U.S. 1ST CIRCUIT COURT OF APPEALS

EDUCATION LAW, HEALTH LAW, LABOR & EMPLOYMENT LAW

Bellone v. Southwick-Tolland Regional School District, No. 13-1341

Summary judgment in favor of defendant-former employer in an action alleging violations of the Family and Medical Leave Act of 1993 (FMLA), is affirmed, where: 1) the district court correctly concluded that plaintiff has demonstrated no genuine dispute of material fact that would support a finding that he suffered harm as a result of defendant's late and inadequate notices; and 2) plaintiff has not demonstrated that he could have returned to work within the FMLA period even if defendant had properly notified him of his rights.

CRIMINAL LAW & PROCEDURE, SENTENCING

US v. Sepulveda-Hernandez, No. 12-2301

Defendant's convictions and sentence for charges stemming from the distribution of marijuana and crack cocaine are: 1) vacated in part, where 21 U.S.C. section 860(a) does create an independent substantive offense for drug distribution in close proximity to a youth center, but here the evidence offered at trial was insufficient to support convictions for that offense; but 2) affirmed in part, where defendant can be held to account on a lesser included offense theory under 21 U.S.C. section 841(a)(1), so the matter is remanded for resentencing.

CONSTITUTIONAL LAW, CRIMINAL LAW & PROCEDURE, SENTENCING,
CYBERSPACE LAW

US v. Sayer, No. 12-2489

Defendant's conviction and sentence for cyberstalking are affirmed, where: 1) the federal cyberstalking statute has been constitutionally applied to defendant and is facially constitutional; and 2) the district court's reasoned decision to vary upward rather than depart downward under the Sentencing Guidelines was not an abuse of discretion.

CRIMINAL LAW & PROCEDURE, SENTENCING, EVIDENCE

US v. Ayala-Vazquez, No. 11-2347

Defendants' convictions and sentences for multiple criminal charges related to their involvement in a wide-ranging drug trafficking organization are affirmed, where: 1) the evidence was sufficient to support their convictions; 2) even if the judge erred by questioning various witnesses and making comments, the error was harmless; and 3)

defendant Cruz's sentence is procedurally and substantively reasonable. (Superseding opinion) [The 4/30/14 opinion was withdrawn and replaced by this one.]