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## **Most Recent Summaries**

### **U.S. 1st Circuit Case Summaries**

#### **US v. Gierbolini-Rivera**

August 14, 2018

Criminal Law & Procedure, Health Law, Sentencing

(United States First Circuit) - Affirmed the sentence of a defendant who pleaded guilty to one count of theft in connection with health care and to one count of wire fraud. An accountant who embezzled nearly \$1 million from a radiology medical firm challenged the procedural and substantive reasonableness of his upwardly variant sentence. Finding no error, the First Circuit affirmed.

#### **US v. Sosa-Gonzalez**

August 14, 2018

Sentencing, Criminal Law & Procedure

(United States First Circuit) - Affirmed the sentence of a defendant who pleaded guilty to one count of being a felon in possession of a firearm and to one count of possession of a machine gun. The defendant challenged his sentence on procedural and substantive reasonableness grounds. Finding no error, the First Circuit affirmed.

#### **US v. Perez-Crisostomo**

August 10, 2018

Sentencing, Criminal Law & Procedure

(United States First Circuit) - Affirmed a drug-trafficking sentence despite the defendant's argument that he was given an unwarranted Guidelines enhancement for obstruction of justice. The defendant, who pleaded guilty, also argued that he should be given a credit for acceptance of responsibility. However, the First Circuit found that he had maintained a false identity (i.e., used an assumed name) throughout his criminal proceedings, and thus affirmed the sentence.

#### **Medical Mutual Insurance Co. v. Burka**

August 10, 2018

Insurance Law, Health Law, Professional Malpractice

(United States First Circuit) - Held that a professional liability insurer had no duty to defend a physician who was accused of improperly accessing his ex-wife's medical records so he could harass and embarrass her. In this declaratory judgment action, the insurer argued that it had no duty to defend the physician from his ex-wife's legal claims, which had been filed in state courts in Maine and Maryland. The First Circuit agreed that the matters fell outside the insurance policy's coverage, and affirmed summary judgment for the insurer.

**Carlson v. University of New England**

August 10, 2018

Civil Rights, Labor & Employment Law

(United States First Circuit) - Reinstated a university professor's claims that she was retaliated against in violation of Title VII and the Maine Human Rights Act. The professor alleged that she was transferred to a different department and suffered other retaliation after she complained of being sexually harassed by her department chair. Agreeing that genuine disputes of material fact existed, the First Circuit reversed the entry of summary judgment for the university and remanded.

**Sexual Minorities Uganda v. Lively**

August 10, 2018

Civil Procedure, Civil Rights, International Law

(United States First Circuit) - Held that a defendant who won a summary judgment motion could not appeal to challenge unflattering statements found in the trial judge's opinion. In this tort lawsuit brought by a Ugandan gay-rights organization, the defendant religious leader successfully obtained summary judgment by arguing lack of extraterritorial jurisdiction but then appealed. The First Circuit concluded that a winner cannot appeal a judgment merely because there are passages in the court's opinion that displease him or her.

**Torres-Pagan v. Berryhill**

August 10, 2018

Juvenile Law, Government Benefits

(United States First Circuit) - Vacated an administrative ruling that terminated the Supplemental Security Income benefits of an individual who had received them since childhood for an intellectual disorder. The plaintiff disputed the medical evidence that the Social Security Administration relied on in concluding that he was no longer disabled after he turned age 18. Finding merit in his arguments, the First Circuit held that the record was insufficient to conclude he was no longer disabled.

**US v. Harrison**

August 10, 2018

Sentencing, Criminal Law & Procedure

(United States First Circuit) - Affirmed a prison sentence followed by lifetime supervised release on charges of possession of child pornography. The defendant, who had previously been convicted of a sexual crime involving young boys, argued that the district court inadequately explained why it imposed a condition of lifetime supervised release, and also that his 120-month prison sentence was substantively unreasonable. The First Circuit rejected his arguments and affirmed.

**US v. Reid**

August 10, 2018

Sentencing, Criminal Law & Procedure

(United States First Circuit) - Affirmed a sentence for possession with intent to distribute cocaine and heroin. A man who pleaded guilty after police caught him couriering drugs cross-country in

his backpack challenged the length of his sentence. Rejecting his arguments, the First Circuit emphasized that the district court found him to be a career offender but sentenced him to a below-guidelines term of 78 months in prison.