



Congressional Court Watcher: Circuit Splits from March 2026

April 20, 2026

The U.S. Courts of Appeals for the thirteen “circuits” issue thousands of precedential decisions each year. Because relatively few of these decisions are ultimately reviewed by the Supreme Court, the U.S. Courts of Appeals are often the [last word](#) on consequential legal questions. The federal appellate courts sometimes reach different conclusions on the same issue of federal law, causing a “split” among the circuits that leads to the nonuniform application of federal law among similarly situated litigants.

This Legal Sidebar discusses circuit splits that emerged or widened following decisions from March 2026 on matters relevant to Congress. The Sidebar does not address every circuit split that developed or widened during this period. Selected cases typically involve judicial disagreement over the interpretation or validity of federal statutes and regulations, or constitutional issues relevant to Congress’s lawmaking and oversight functions. The Sidebar includes only cases where an appellate court’s controlling opinion recognizes a split among the circuits on a key legal issue resolved in the opinion. This Sidebar refers to each U.S. Court of Appeals by its number or descriptor (e.g., “D.C. Circuit” for “U.S. Court of Appeals for the D.C. Circuit”).

Some cases identified in this Sidebar, or the legal questions they address, are examined in other CRS general distribution products. Members of Congress and congressional staff may [click here](#) to subscribe to the *CRS Legal Update* and receive regular notifications of new products and upcoming seminars by CRS attorneys.

- **Civil Rights:** The Eleventh Circuit held that qualified immunity depends on whether a defendant’s conduct violates clearly established law; qualified immunity, the court held, is not affected by uncertainty over whether the defendant can be held personally liable for that conduct. Defendant school administrators allegedly failed to implement a settlement agreement between a former employee and their school district because of racial animus. The Eleventh Circuit held that the defendants’ alleged conduct violated clearly established law, reasoning that [42 U.S.C. § 1981](#) and circuit precedent make clear that third parties may not impair contractual rights because of race. The defendants contended that they were nevertheless entitled to qualified immunity because whether government officials can be held personally liable under Section 1981 is uncertain. The court held that any such uncertainty was irrelevant, with the question being whether a defendant’s

Congressional Research Service

<https://crsreports.congress.gov>

LSB11420

conduct was unlawful, not whether a plaintiff can successfully haul them into court. The Eleventh Circuit rejected a [Fifth Circuit](#) finding that qualified immunity should be conferred where there had been uncertainty about the individual liability of public employees at the time of the conduct under the [Family and Medical Leave Act \(FMLA\)](#). The Eleventh Circuit concurred with a [Tenth Circuit](#) conclusion regarding the same FMLA question and a [Seventh Circuit](#) opinion addressing uncertainty over personal liability in a different context (*Foster v. King*).

- **Civil Rights:** A divided Eleventh Circuit panel generally upheld a lower court’s ruling that Florida’s Medicaid health care program violated [Title II of the Americans with Disabilities Act \(ADA\)](#) in serving children who were institutionalized or likely to be institutionalized due to “medically complex” conditions, requiring, for example, equipment for communication, mobility, breathing, or eating. Among other things, the majority agreed with the lower court that Florida’s Medicaid system unjustifiably risked institutionalizing these children in contravention of the ADA’s mandate—reflected in [ADA regulations](#) and [the Supreme Court’s *Olmstead* decision](#)—that persons with disabilities be placed in the most integrated setting possible. In so doing, the majority agreed with the [Second](#), [Fourth](#), [Sixth](#), [Seventh](#), [Ninth](#), and [Tenth](#) Circuits, which have held that those at risk of institutionalization (but not yet institutionalized) may bring *Olmstead* claims, but split with the [Fifth Circuit](#), which has held that risk alone does not give rise to a concrete claim under Title II (*United States v. Florida*).
- **Criminal Law & Procedure:** A divided Second Circuit held that time credits earned under a provision of the First Step Act, [18 U.S.C. § 3632\(d\)\(4\)](#), could not be used to reduce the petitioner’s period of supervised release. Section 3632(d)(4) permits qualifying prisoners to earn time credits for their participation in certain activities, including recidivism reduction programming. The majority held that time credits could be used for the early start of prelease custody or supervised release, but could not reduce the period of supervised release. The majority split from the [Ninth Circuit](#), which has held that an inmate may use earned time credits to reduce his term of supervise release (*Rivera-Perez v. Stover*).
- **Criminal Law & Procedure:** A divided Fourth Circuit panel held that a defendant had a reasonable expectation of privacy in files stored in a private Google Drive account and that law enforcement’s warrantless opening of those files was an unreasonable search in violation of the [Fourth Amendment](#), even where Google had flagged the files as likely to contain illegal material. A Google algorithm identified through [hash value matching](#) that the defendant’s files matched known child sexual abuse material. A Google reviewer opened some of the files and submitted a report to the National Center for Missing and Exploited Children, which reviewed the same opened files and forwarded the report to law enforcement. Without a warrant, a detective opened several new files and then obtained a search warrant for the Google account. The panel majority held that the defendant had a reasonable expectation of privacy in his Google Drive account and in the files stored there. It rejected the government’s arguments that Google’s privacy policy extinguished any reasonable privacy expectation, declining to follow an [Eleventh Circuit](#) opinion regarding inspection warnings by FedEx. The Fourth Circuit panel majority also held that the hash-matching of the files was not sufficient to trigger an exception to the warrant requirement under the private search doctrine, which generally provides that a search by a private party does not implicate the Fourth Amendment even if the results are provided to the government. In so interpreting the private search doctrine in the hash-matching context, the panel majority aligned with the [Second](#) and [Ninth](#) Circuits and against the [Fifth](#) and [Sixth](#) Circuits. The Fourth Circuit panel majority held that the

detective exceeded the bounds of the earlier private searches and violated the Fourth Amendment when she opened files that private actors had flagged through hash-matching but not opened. The panel majority nevertheless affirmed the defendant's conviction because later discovered evidence was sufficiently attenuated from the illegal search, and the remaining panel member concurred in the result (*United States v. Lowers*).

- **Criminal Law & Procedure:** The Sixth Circuit held that the federal criminal offense of coercion and enticement of a minor, 18 U.S.C. § 2422(b), requires knowledge of the victim's minor status. The defendant pleaded guilty to failure to register as a sex offender in violation of the Sex Offender Registration and Notification Act (SORNA). For sentencing purposes, the district court had classified the defendant as a Tier II sex offender under SORNA because it found that her underlying state law offense for lewd and lascivious battery was "comparable to or more severe than" Section 2422(b), a Tier-II offense. The Tenth Circuit determined that the state offense was not comparable primarily because, unlike the strict liability state offense, Section 2422(b) requires knowledge of the victim's minor status. In interpreting Section 2422(b) to require such knowledge, the Sixth Circuit joined the Seventh and Ninth Circuits while disagreeing with the Fourth and Eleventh Circuits. The Sixth Circuit relied on the plain text of the statute, holding that the adverb "knowingly" applied to not only the series of transitive verbs that follow that term in the statute, but also the grammatical object of that conduct, an "individual who has not attained the age of 18 years." The court rejected the contrary circuits' reliance on a comparison to an adjacent federal child sex trafficking statute that courts have uniformly interpreted not to require knowledge of age, explaining that the trafficking statute is structured differently. The court also reasoned that minor status can distinguish criminal behavior from innocent conduct in the enticement context, unlike in trafficking, bolstering a presumption in favor of a scienter requirement. The panel remanded for resentencing, in part because of the tier misclassification (*United States v. Buddi*).
- **Criminal Law & Procedure:** The Ninth Circuit affirmed the application of a sentencing enhancement for firearms trafficking to a defendant who sold firearms to undercover agents. The enhancement in the U.S. Sentencing Guidelines requires that a defendant knew or had reason to believe that their conduct would transfer a firearm to an individual who intended to use the firearm unlawfully or who could not lawfully possess a firearm. (The enhancement was amended in 2023, but the current version and prior version at issue in the case contain similar language.) The Ninth Circuit held that, based on a plain text reading, the enhancement does not require that the transferee was in fact an unlawful possessor or intended to use the firearm unlawfully; the attachment applies, the court explained, if the defendant had a reasonable belief of such. In adopting this interpretation, the Ninth Circuit agreed with the Sixth, Seventh, and Eleventh Circuits and rejected a contrary Tenth Circuit decision. The Ninth Circuit also rejected the defendant's reliance on out-of-circuit interpretations of a related criminal statute involving knowledge or reasonable belief of a recipient's status as a felon. The court deemed unpersuasive the Fourth and Fifth Circuits' conclusory interpretations requiring actual felon status (*United States v. Ferrari*).
- **Criminal Law & Procedure:** In an amended opinion, a divided Ninth Circuit panel affirmed a district court's order that accumulated deposits made by friends and family of a federal inmate be applied to the inmate's restitution obligations under the Mandatory Victims Restitution Act (MVRA). A provision of the MVRA, 18 U.S.C. § 3664(n), generally requires a covered criminal who "receives substantial resources from any source, including inheritance, settlement, or other judgment, during a period of incarceration . . . to apply the value of such resources to any restitution or fine still

owed.” The Ninth Circuit majority held that Section 3664(n)’s reference to “any source” indicated that the MVRA applied to substantial aggregated sums accrued in an inmate’s trust account from periodic deposits by multiple sources. The majority disagreed with the [First](#) and [Fifth](#) Circuits, among other courts, which have interpreted the MVRA’s reference to an “inheritance, settlement, or other judgment” to indicate that the statute was intended to apply in more limited fashion to sudden financial windfalls (*United States v. Myers*).

- **Criminal Law & Procedure:** The Eleventh Circuit held that district courts may not permit federal inmate habeas corpus petitioners pursuing a second or successive petition to add new claims beyond those screened by a court of appeals. Under [28 U.S.C. § 2255](#), second or successive petitions must be certified by the appropriate court of appeals to rely on either (1) newly discovered evidence sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the petitioner guilty of the offense at issue or (2) a newly announced constitutional interpretation made retroactively applicable. The Eleventh Circuit had granted this petitioner leave to challenge one of the counts on which he was convicted. At the district court, he moved to amend his petition to challenge several other counts. The district court refused, and the Eleventh Circuit agreed that the district court lacked jurisdiction to consider the motion. The circuit panel held that expanding the scope of the petition to additional counts would require a new application to the court of appeals. In so deciding, the Eleventh Circuit noted a “potential circuit split” given decisions by the [Fourth](#) and [Seventh](#) Circuits. Those circuits permitted district courts to consider motions to amend Section 2255 petitions under [Federal Rule of Civil Procedure 15](#). The Eleventh Circuit rejected this approach, to the extent that it permits petitioners to add claims that have not been screened by the court of appeals. The court remanded for resentencing on other grounds (*United States v. Ragland*).
- **Immigration:** A divided Eighth Circuit panel held that an alien taken into immigration custody after having unlawfully entered the country years earlier could be detained without bond during the pendency of removal proceedings. In many cases, an alien [may be released](#) from custody on bond or on his or her own recognizance during the pendency of removal proceedings. Except in narrow circumstances, however, [8 U.S.C. § 1225\(b\)\(2\)\(A\)](#) directs that “in the case of an alien who is an *applicant for admission*, if the examining immigration officer determines that an *alien seeking admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained [during removal proceedings]” (italics added). Federal [statute](#) provides that an alien “present in the United States who has not been admitted” shall be treated as an “applicant for admission,” but does not define an alien “seeking admission.” The Eighth Circuit majority joined the [Fifth Circuit](#) in holding that “applicant for admission” and an “alien seeking admission” are synonymous terms, meaning that aliens, such as the petitioner, who are present in the United States but not lawfully admitted are subject to the mandatory detention under Section 1225(b)(2)(A). In so doing, the majority rejected the petitioner’s argument and the position of the [Seventh Circuit](#) that the two terms were not coextensive, and that an “alien seeking admission” under Section 1225(b)(2)(A) includes only those aliens not lawfully admitted who are encountered at the border, and not those found unlawfully present within the United States (*Avila v. Bondi*).
- **International Law:** A divided Fourth Circuit panel affirmed a jury’s verdict in favor of Iraqi citizens who brought claims under the [Alien Tort Statute \(ATS\)](#) against a U.S. contractor that provided interrogation services at Abu Ghraib Prison in Iraq, where the plaintiffs were detained. The ATS [grants](#) federal district courts “original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or

a treaty of the United States,” and the jury found the contractor liable on two claims: (1) conspiracy to commit torture and (2) conspiracy to commit cruel, inhuman, and degrading treatment. In upholding the verdict, the panel majority identified several issues regarding the application of the ATS on which it disagreed with other circuits. First, it held that the claims under the ATS were not impermissibly [extraterritorial](#) because detention centers in Iraq at the time of the plaintiffs’ detention were within the territorial jurisdiction of the United States. Applying the Supreme Court’s decision in [Rasul v. Bush](#), concerning detentions at Guantanamo Bay Naval Base in Cuba, the panel majority held that the United States had “complete jurisdiction and control over Abu Ghraib” at the relevant time. The panel majority declined to follow the [Fifth Circuit](#), which distinguished Iraq from Guantanamo Bay because of the temporary nature of the U.S. occupation of Iraq. Second, the panel majority held that the ATS permits the imposition of liability on corporations. While the Supreme Court has [held](#) that courts must look to norms of international law to assess what conduct is subject to liability under the ATS, appellate courts have adopted different views as to whether these norms control the question of corporate liability. The Fourth Circuit panel majority rejected the approach of the [Second](#) and [Ninth](#) Circuits, which look to whether international law recognizes the liability of corporations, and instead adopted that of the [D.C. Circuit](#), which does not rely on international norms and instead focuses on the purposes of the ATS. In concluding that corporate liability may exist under the ATS, the Fourth Circuit panel majority also relied on [concurring opinions considering the matter](#) in the Supreme Court’s decision in [Nestlé USA, Inc. v. Doe](#). Finally, the panel majority held that the combatant exception in the [Federal Tort Claims Act](#) does not preempt claims under the ATS, declining to follow a portion of a [D.C. Circuit](#) opinion that the panel majority characterized as “arguably dicta” ([Al Shimari v. CACI Premier Tech., Inc.](#)).

Author Information

Michael John Garcia
Deputy Assistant Director/ALD

Alexander H. Pepper
Legislative Attorney

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.