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Gamecocks Spur Trouble in Jury Deliberations: What the Fourth Circuit Really Thinks About Wikipedia as a Legal Resource in United States v. Lawson

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GAMECOCKS SPUR TROUBLE IN JURY DELIBERATIONS: WHAT THE FOURTH CIRCUIT REALLY THINKS ABOUT WIKIPEDIA AS A LEGAL RESOURCE IN *UNITED STATES V. LAWSON*

I. INTRODUCTION

How acceptable is it to rely on Wikipedia as a legal resource? According to a recent case, Fourth Circuit practitioners can infer that it would be imprudent to rely on Wikipedia as a legal resource.[1] In *United States v. Lawson*,[2] a juror consulted a Wikipedia page to research an element of the crime at issue in the case and brought the page into jury deliberations.[3] According to the United States Court of Appeals for the Fourth Circuit, the juror misconduct was so problematic that it could have violated the defendant's Sixth Amendment right to a fair trial, and the court granted a new trial.[4] The misconduct was problematic because not only did the juror disobey the judge's instructions,[5] but he also used Wikipedia, a resource the court concluded was inherently unreliable, for legal research.[6] In *Lawson*, the Fourth Circuit placed a high value on reliable knowledge;[7] thus, Fourth Circuit practitioners should avoid relying on Wikipedia and search for more reliable sources.

II. WIKIPEDIA AS A LEGAL RESOURCE

A. A Brief Overview of Wikipedia

Not too long ago, encyclopedias lined our bookshelves and were the go-to source for general research. Then, as computers grew more commonplace, encyclopedias were available for purchase on a compact disc.[8] Now, with the convenience of and access to the World Wide Web, encyclopedias are available online.[9] Naturally, most people use the Internet to conduct research, and when one inputs a research topic into a search engine, one of the top suggestions is usually Wikipedia, one of the most popular free online encyclopedias.[10]

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1. *See* United States v. Lawson, 677 F.3d 629 (4th Cir. 2012), *cert. denied*, 133 S. Ct. 393 (2012).
2. 677 F.3d 629.
3. *See id.* at 639, 640.
4. *See id.* at 651.
5. *See id.* at 640.
6. *See id.* at 650.
7. *See id.* at 650–51 (quoting *Wikipedia: About*, WIKIPEDIA, http://en.wikipedia.org/wiki/Wikipedia:about (last modified Mar. 23, 2013).
8. *See, e.g.*, Stuart A. Forsyth, *Perspectives from a Legal Futurist: Challenges to the Courts and the Legal Community*, 51 S. TEX. L. REV. 913, 923–24 (2010) (discussing when encyclopedias first began to be developed for publication on CD-ROMs).
9. *See, e.g.*, *Welcome to Wikipedia*, WIKIPEDIA, http://en.wikipedia.org/wiki/Main_Page (last visited Mar. 29, 2013) (describing Wikipedia as a "free encyclopedia").
10. *See generally Wikipedia: About*, *supra* note 7 (describing Wikipedia's popularity).

What is Wikipedia? According to Wikipedia itself, it is "a multilingual, web-based, free-content encyclopedia project operated by the Wikimedia Foundation and based on an openly editable model."[11] Who writes and edits Wikipedia? "Wikipedia is written collaboratively by largely anonymous Internet volunteers who write without pay. Anyone with Internet access can write and make changes to Wikipedia articles. . . ."[12] Alarmingly, anyone can edit a Wikipedia article "by simply clicking the *Edit* link at the top of any editable page."[13] Wikipedia avows to review the additions and edits to the articles and only allow content that "fits within Wikipedia's policies, including being verifiable against a published reliable source, thereby excluding editors' opinions and beliefs and unreviewed research, and whether the content is free of copyright restrictions and contentious material about living people."[14] However, Wikipedia confesses that "newer articles may contain misinformation, unencyclopedic content, or vandalism" and researchers' awareness of such abuse "aids [the researcher in] obtaining valid information and avoiding recently added misinformation."[15]

Wikipedia further warns that because its articles may lack accuracy and contain bias, a user should "always be wary" when relying on Wikipedia.[16] Wikipedia admits that the open-source aspect of its platform yields certain weaknesses, even with general research.[17] With this shortcoming in mind, a person performing any kind of legal research should be extra cautious when relying on Wikipedia because "[t]he purpose of legal research is to find 'authority' that will aid in finding a solution to a legal problem."[18] One could take this purpose a step further and emphasize that such authority needs to be reliable.

Accordingly, the legal community, including practitioners[19] and academics,[20] question the reliability of Wikipedia as a legal resource.

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11. *Id.*
12. *Id.*
13. *Id.*
14. *Id.*
15. *Id.*
16. *Wikipedia: Researching with Wikipedia*, WIKIPEDIA, http://en.wikipedia.org/wiki/Wikipedia:Researching_with_Wikipedia (last modified Feb. 15, 2013).
17. *See id.*
18. *Legal Research*, LEGAL INFO. INST., www.law.cornell.edu/wex/legal_research (last visited Mar. 29, 2013).
19. *See, e.g.*, Keith Lee, *Then Again, Maybe Wikipedia IS a Proper Legal Authority*, ASSOCIATE'S MIND (Apr. 6, 2011), http://associatesmind.com/2011/04/06/then-again-maybe-wikipedia-is-a-proper-legal-authority/ (stating that the author "would not be inclined to reference Wikipedia in any document [he] was going to file with the court"); *A New Legal Source for Courts—Wikipedia?*, HALL RENDER LITIGATION ANALYSIS (July 18, 2012), http://www.hallrender.com/litigation/a-new-legal-source-for-courts-wikipedia (nothing that a number of courts have cited to Wikipedia, yet cautioning that "[a]ttorneys should be mindful of the multitude of 'legal' resources in an ever changing world of litigation").

Additionally, courts have addressed and opined on the reliability of Wikipedia and do not afford much weight to information derived from Wikipedia.[21]

B. *The Fourth Circuit and Wikipedia*

Last year in *United States v. Lawson*, the Fourth Circuit agreed that "a juror's misconduct in performing unauthorized research of the definition of an element of the offense on Wikipedia.org (Wikipedia), an 'open access' [I]nternet encyclopedia, [could have deprived the Defendant] of his Sixth Amendment right to a fair trial."[22] The offense in this case involved cockfighting in violation of the Animal Welfare Act,[23] which prohibits "sponsor[ing] or exhibit[ing] an animal in an animal fighting venture."[24] During an overnight recess from jury deliberations, one of the jurors researched the meaning of "sponsor" on Wikipedia.[25] The next day, the juror brought a print out of this Wikipedia page into jury deliberations and shared it with other jurors, despite the court's instruction not to perform any research on the Internet and other jurors' warnings that it was inappropriate to use the print out.[26] On this same day, the jury reached a guilty verdict.[27] Several days after the verdict, another juror informed the court about the unauthorized research.[28] The court ordered a hearing on the matter and then found that the juror "committed misconduct but that the defendants were not prejudiced by the juror's actions."[29]

On appeal, Lawson argued that the juror's misconduct prejudiced him, which deprived him of his Sixth Amendment right to a fair trial.[30] The district court employed a five-factor test outlined by the Tenth Circuit in *Mayhue v. St. Francis Hospital of Wichita, Inc.*[31] to determine whether the juror's misconduct prejudiced Lawson.[32] The *Mayhue* test allows a judge to "confirm or rebut the presumption of prejudice by objectively weighing all of the facts and circumstances of the case" since a judge is rarely "able to ascertain the actual prejudicial impact of a jury's exposure to external influences because a juror

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20. *See, e.g.*, Rachel Samberg, *Un-legislative History*, LEGAL RES. PLUS (Nov. 16, 2010), http://legalresearchplus.com/2010/11/16/un-legislative-history/ (describing how Wikipedia often has inaccurate information regarding the legislative history of statutes).

21. *See, e.g.*, United States v. Lawson, 677 F.3d 629, 650 (4th Cir. 2012) (quoting *Wikipedia: About*, *supra* note 7) (addressing the reliability of Wikipedia), *cert. denied*, 133 S. Ct. 393 (2012).

22. *Id.* at 633–34.

23. *See id.* at 634 (citing 7 U.S.C. § 2156(a)(1) (2006); 18 U.S.C. §§ 2, 371 (2006)).

24. § 2156(a)(1).

25. *Lawson*, 677 F.3d at 636.

26. *See id.* at 639–40.

27. *See id.* at 636.

28. *See id.* at 639.

29. *Id.* at 636.

30. *See id.* at 639, 641.

31. 969 F.2d 919 (10th Cir. 1992).

32. *Lawson*, 677 F.3d at 641 (citing *Mayhue*, 969 F.2d at 924).

cannot testify regarding the subjective effect of such influences during a [Federal Rules of Evidence] Rule 606(b) hearing."[33]

However, the district court, while analyzing the *Mayhue* test, did not address whether Lawson was entitled to a rebuttable presumption of prejudice from the juror's use of Wikipedia.[34] On appeal, the Fourth Circuit reviewed this issue de novo.[35] It first considered whether Lawson was entitled to a rebuttable presumption of prejudice,[36] and it concluded that he was.[37] The court noted that the circuits are split on whether the standard the United States Supreme Court expressed still applies.[38] The standard, referred to as the *Remmer* presumption, is that "any private communication, contact, or tampering, directly or indirectly, with a juror during a trial about the matter pending before the jury is, for obvious reasons, deemed presumptively prejudicial."[39] Ultimately, the *Lawson* court established that the *Remmer* presumption still applied because of precedent[40] and applied the standard to a juror's unauthorized use of Wikipedia within the jury deliberations.[41]

The court of appeals next turned to whether the government had overcome the presumption of prejudice to Lawson.[42] To overcome the presumption of prejudice, a party must show that the external influence on the juror was harmless.[43] Like the district court, the court of appeals used the *Mayhue* test to analyze whether the external influence over the juror was harmless.[44] The five factors of the *Mayhue* test are as follows:

> (1) The importance of the word or phrase being defined to the resolution of the case.
>
> (2) The extent to which the dictionary definition differs from the jury instructions or from the proper legal definition.

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33. *Mayhue*, 969 F.2d at 923–24.

34. *See Lawson*, 677 F.3d at 641 (noting that the "district court concluded that there was 'no reasonable possibility that the external influence caused actual prejudice,' and thus denied Lawson's motion" for a new trial (quoting United States v. Dyal, Cr. No. 3:09 1295 CMC, 2010 WL 2854292, at *17 (D.S.C. July 19, 2010))).

35. *Id.*

36. *See id.* at 641–42.

37. *See id.* at 646.

38. *See id.* at 642.

39. Remmer v. United States, 347 U.S. 227, 229 (1954).

40. *See Lawson*, 677 F.3d at 642–43. The court discussed how the Fourth Circuit applied the *Remmer* presumption in *United States v. Basham*, *United States v. Cheek*, and *Stockton v. Virginia*. *Id.* (quoting United States v. Basham, 561 F.3d 302, 319–21 (4th Cir. 2009); United States v. Cheek, 94 F.3d 136, 138, 141 (4th Cir. 1996); Stockton v. Virginia, 852 F.2d 740, 742–43, 744 (4th Cir. 1988)).

41. *See id.* at 646.

42. *See id.*

43. *See id.* at 643 (citing United States v. Greer, 285 F.3d 158, 173 (2d Cir. 2002)).

44. *See id.* at 646.

> (3) The extent to which the jury discussed and emphasized the definition.
>
> (4) The strength of the evidence and whether the jury had difficulty reaching a verdict prior to introduction of the dictionary definition.
>
> (5) Any other factors that relate to a determination of prejudice.[45]

Under the first *Mayhue* factor, analyzing the importance of the word "sponsor" to the case, the court of appeals determined it favored Lawson since "sponsor" was an element of the crime and, therefore, was important to resolving the case.[46] The government argued that the word was not important to the verdict of the case given that jurors testified that they did not need the word "sponsor" in the deliberations that day because the jury's decision hinged on another section of the statute that did not include the word "sponsor."[47] The court rejected this reasoning and warned that to agree with this reasoning would undermine Rule 606(b) of the Federal Rules of Evidence.[48]

Furthermore, the court of appeals found that the second *Mayhue* factor, the difference between the Wikipedia definition and the legal definition of "sponsor," also weighed in favor of Lawson.[49] The court centered its analysis of the second *Mayhue* factor on the ever-changing aspect of Wikipedia.[50] By the time the hearing on the juror's misconduct occurred, nineteen days after the issuance of the verdict, the juror no longer had the exact print out of the Wikipedia page. The then-existing Wikipedia page had changed, but it still

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45. *Id.* (quoting Mayhue v. St. Francis Hosp. of Wichita, Inc., 969 F.2d 919, 924 (10th Cir. 1992)).

46. *See id.* at 647.

47. *See id.* ("[T]he government argues that the jury necessarily convicted Lawson under an 'aiding and abetting' theory of liability rather than under a theory of principal liability. In advancing this argument, the government relies on the testimony of Juror 185, who stated that any words researched by Juror 177 became 'null and void' because the jury 'ended up . . . using a different section of the jury instruction . . . for the section that we were deliberating on . . . [We] didn't need that word.'").

48. *Id.* FED. R. EVID. 606. 606(b) states:

> During an Inquiry into the Validity of a Verdict or Indictment.
>
> (1) Prohibited Testimony or Other Evidence. During an inquiry into the validity of a verdict or indictment, a juror may not testify about any statement made or incident that occurred during the jury's deliberations; the effect of anything on that juror's or another juror's vote; or any juror's mental processes concerning the verdict or indictment. The court may not receive a juror's affidavit or evidence of a juror's statement on these matters.
>
> (2) Exceptions. A juror may testify about whether:
>
> (A) extraneous prejudicial information was improperly brought to the jury's attention;
>
> (B) an outside influence was improperly brought to bear on any juror; or
>
> (C) a mistake was made in entering the verdict on the verdict form.

FED. R. EVID. 606(b).

49. *See Lawson*, 677 F.3d at 647, 648.

50. *See id.* at 647–48.

provided a similar definition to the previous entry for "sponsor."[51] The district court did not seem too concerned with this change;[52] however, the court of appeals expressed concern with the consequences of the change.[53] The court of appeals noted that the Wikipedia entry would not likely be retraceable to the day the juror relied on it, despite Wikipedia's claim that it retains a history of edits and previous entries.[54] Further, if it were retraceable, the court would have to trust the accuracy of Wikipedia's records, which it found unsettling.[55] Ultimately, the court of appeals decided that any "meaningful analysis of the second *Mayhue* factor [was] impossible"[56] and expressed that the Wikipedia definition of the word "sponsor" provided such a great amount of information that the extent to which the definition differed from the legal definition of "sponsor" would likely be significant.[57] Therefore, the government did not rebut the *Remmer* presumption with this factor.[58]

Under the third *Mayhue* factor, the court considered the jury's emphasis on the Wikipedia definition of sponsor and concluded that such emphasis was minimal.[59] The court of appeals agreed with the district court's finding that the jurors aware of the research "placed little emphasis on the Wikipedia definition" of the word "sponsor."[60] Yet, the court of appeals took it one step further and considered the extent to which the Wikipedia definition influenced the juror who conducted the research.[61] The court stated that "if even a single juror's impartiality is overcome by an improper extraneous influence, the accused has been deprived of the right to an impartial jury."[62] However, in the context of the government's burden to rebut the *Remmer* presumption, the record and the testimony of the defiant juror did not provide enough evidence to determine the influence of the Wikipedia definition on his decision.[63] Therefore, this third *Mayhue* factor also favored Lawson because the government failed to produce enough supporting evidence.[64]

Additionally, the court of appeals found that the fourth *Mayhue* factor, the strength of evidence in the case and the difficulty of reaching a verdict before the

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51. *See id.* at 640 (quoting United States v. Dyal, Cr. No. 3:09 1295 CMC, 2010 WL 2854292, at *10 n.14 (D.S.C. July 19, 2010)).
52. *See id.* (quoting *Dyal*, 2010 WL 2854292, at *10 n.14).
53. *See id.* at 648.
54. *See id.* at 648 n.26.
55. *See id.* at 648.
56. *Id.*
57. *See id.*
58. *See id.*
59. *See id.*
60. *Id.*
61. *See id.* at 649.
62. *Id.* at 648–49 (quoting Fullwood v. Lee, 290 F.3d 663, 678 (4th Cir. 2002)) (internal quotation marks omitted).
63. *See id.* at 649.
64. *See id.*

introduction of the Wikipedia definition,[65] either weighed equally or weighed in favor of Lawson.[66] Specifically, the court of appeals examined "whether the evidence was strong with regard to the issue whether Lawson 'sponsor[ed]' an animal in an animal fighting venture."[67] The government simply argued that the evidence was strong, with video evidence identifying all of the defendants.[68] However, the court of appeals stated that this conclusory argument was not enough to hold that the evidence against Lawson was strong enough to rebut the *Remmer* presumption.[69] Moreover, the court of appeals concluded that it could not determine whether the jury had difficulty reaching a verdict before the introduction of the Wikipedia definition based on the timing of the jury deliberations.[70] Therefore, the court of appeals determined that this part of the fourth *Mayhue* factor weighed in favor of the government.[71] However, when the court of appeals balanced whether the jury had difficulty reaching a verdict before the introduction of the Wikipedia definition with the strength of the evidence part of the analysis, it determined that this factor weighed either equally between the government and Lawson, or in favor of Lawson.[72]

Finally, under the fifth and final catchall *Mayhue* factor, the court considered the overall reliability of Wikipedia,[73] which it concluded favored Lawson.[74] In reaching this conclusion, the court cautioned against relying on Wikipedia because of its numerous problems and expressed that it was "troubled by Wikipedia's lack of reliability."[75] The court outlined the troubling aspects of Wikipedia, including the open-editing policy, the regular changing and editing of content, the amateurs who add and edit the entries, and the likely possibility of inaccurate information.[76] In particular, the court declared "the *danger* in relying on a Wikipedia entry is obvious and real."[77]

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65. *Id.* (quoting Mayhue v. St. Francis Hosp. of Wichita, Inc., 969 F.2d 919, 924 (10th Cir. 1992)).

66. *Id.* at 650.

67. *Id.* at 649.

68. *Id.* at 649 n.27 (quoting Brief of Appellee at 51–52, *Lawson*, 677 F.3d 629 (No. 10-4831(L)).

69. *See id.* at 649.

70. *Id.* at 650. "The jury began its deliberations on Thursday, May 6, 2010 at about 4:00 p.m." *Id.* at 649–50. "The jury was excused for the evening after 5:30 p.m." and the defiant juror "researched and printed the Wikipedia entry defining the term 'sponsor' the next morning, shortly before the jury resumed deliberations at about 9:00 a.m." *Id.* at 650. "The jury reached its verdict at about 4:30 p.m. that afternoon." *Id.* "Based on this timeline, we cannot say that the jury had difficulty reaching a verdict prior to [the] improper research." *Id.*

71. *Id.* at 650.

72. *See id.*

73. *See id.* (quoting Mayhue v. St. Francis Hosp. of Wichita, Inc., 969 F.2d 919, 924 (10th Cir. 1992)).

74. *Id.* at 651.

75. *Id.* at 650.

76. *See id.* (quoting W*ikipedia: About*, *supra* note 7).

77. *Id.* (emphasis added).

After analyzing all the *Mayhue* factors, the court of appeals concluded that "because the government has a 'heavy obligation' to rebut the presumption of prejudice by showing that 'there is no reasonable possibility that the verdict was affected by the' external influence, the government's showing in this case, as a matter of law, does not satisfy that obligation."[78] Therefore, the government failed to rebut the *Remmer* presumption and could have violated Lawson's Sixth Amendment right to a fair trial.[79] Thus, the court of appeals vacated Lawson's convictions under the animal fighting statute and awarded him a new trial.[80]

C. Other Jurisdictions' Opinions on Wikipedia

Surprisingly, the legal community, including judges, continues to rely on Wikipedia.[81] The use of Wikipedia within the legal community is prevalent[82] and increasing.[83] In 2010, the Fifth Circuit Court of Appeals disapproved of a judge's reliance on Wikipedia in his holding and warned of using "unreliable [I]nternet sources in the future."[84] The Eighth Circuit Court of Appeals reached

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78. *Id.* at 651 (quoting United States v. Cheek, 94 F.3d 136, 142 (4th Cir. 1996)).

79. *See id.*

80. *Id.*

81. *See* Lee F. Peoples, *The Citation of Wikipedia in Judicial Opinions*, 12 YALE J.L. & TECH. 1, 3 (2009) ("Citations to Wikipedia in judicial opinions first appeared in 2004 and have increased steadily ever since."). "Wikis or Wikipedia were cited in 4 cases in 2004, 18 cases in 2005, 80 cases in 2006, 136 cases in 2007, and 169 cases in 2008." *Id.* at 28 n.174. Professor Peoples' article compiles the results of his own research of "the citation of Wikipedia in American judicial opinions." *Id.* at 6. He searched the "Westlaw database ALLCASES for the terms 'wiki OR Wikipedia.'" *Id.* As of November 28, 2008, this search returned 407 cases with reference to a wiki or Wikipedia article. *Id.* at 6 & n.29. As of January 14, 2013, this same search returns 1,140 cases with reference to wiki or Wikipedia. To recreate these search results, use the following query: "wiki or Wikipedia & da(bef 1/14/2013)" in the ALLCASES database of Westlaw.

82. One prominent legal blog did a quick study in April 2012 to answer the question of which federal appeals court cites Wikipedia the most. *See* Joe Palazzolo, *Which Federal Appeals Court Cites Wikipedia Most Often?*, L. BLOG (Apr. 23, 2012, 7:35 PM), http://blogs.wsj.com/law/2012/04/23/which-federal-appeals-court-cites-wikipedia-most/. The article states:

> The two court of appeals most comfortable with Wikipedia were the Seventh Circuit and the Ninth Circuit, with 36 citations and 17 citations, respectively. The 10th Circuit and Sixth Circuit recorded eight and six citations, respectively. The First, Second, Third, Fourth, Fifth, Eighth, and 11th circuits all had five or fewer Wikipedia citations. Neither the D.C. Circuit nor the Federal Circuit . . . has cited Wikipedia in an opinion. Nor has the Supreme Court . . . .

Id.

83. *See* Peoples, *supra* note 81, at 3.

84. Bing Shun Li v. Holder, 400 F. App'x 854, 858 (5th Cir. 2010). Other courts have echoed this warning. *See, e.g.*, Campbell *ex rel.* Campbell v. Sec'y of Health & Human Servs., 69 Fed. Cl. 775, 781 (2006) (scolding a Special Master for looking at articles on the Internet that were considered to be unreliable); Grissom v. Arnott, No. 09 03244 CV S SWH, 2012 WL 1309266, at *20 (W.D. Mo. Apr. 16, 2012) ("Wikipedia is not a reliable source as anyone—even someone with little knowledge of the subject—can edit an entry."); Baldanzi v. WFC Holdings Corp., No. 07 Civ. 9551 (LTS)(GWG), 2010 WL 125999, at *3 n.1 (S.D.N.Y. Jan. 13, 2010) (quoting *Wikipedia: Researching with Wikipedia*, *supra* note 16) (describing the unreliability of Wikipedia).

the same conclusion in a similar situation in a 2008 case.[85] Also, the United States District Court for the Central District of California chided a defendant for relying solely on Wikipedia to explain certain social networking sites and web hosting services, when surely there were other more reliable sources to utilize.[86] Likewise, a federal court in Idaho, using very strong language, shamed a U.S. Attorney for using Wikipedia to explain the greater than and less than mathematical symbols.[87] Specifically, the court "admonished [the Attorney] from using Wikipedia as an authority in this District again," and stated further that a U.S. Attorney "should know that citations to such unreliable sources only serve to undermine his reliability as counsel."[88]

III. CONCLUSION

Although the court in *Lawson* questioned the reliability of Wikipedia for a purpose other than legal citation or using it to argue a legal point to the court, it could be deduced that the court is troubled with the use of Wikipedia in the legal community.[89] The bottom line is that the court vacated a criminal defendant's conviction because of the inherent unreliability of Wikipedia.[90] The critical rulings against the use of Wikipedia, in the Fourth Circuit and in other circuits,[91] warn the legal community to avoid it for legal research. Therefore, if appearing before the Fourth Circuit, a prudent practitioner would avoid relying on Wikipedia for any legal research, legal argument, or legal citation.

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85. *See* Badasa v. Mukasey, 540 F.3d 909, 910 (8th Cir. 2008).

86. *See* Crispin v. Christian Audigier, Inc., 717 F. Supp. 2d 965, 976–77 & n.19 (C.D. Cal. 2010).

87. *See* Kole v. Astrue, No. CV 08 0411 LMB, 2010 WL 1338092, at *7 n.3 (D. Idaho Mar. 31, 2010).

88. *Id.*

89. *See* United States v. Lawson, 677 F.3d 629, 650–51 (4th Cir. 2012) (quoting *Wikipedia: About*, *supra* note 7), *cert. denied*, 133 S. Ct. 393 (2012).

90. *See id.* at 651.

91. *See id.*; *see also supra* notes 84–88 and accompanying text (providing examples of when other circuits have warned against using Wikipedia).

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