

# Appendix A

4 pages

A,  
FILED: May 21, 2019

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

No. 19-6110  
(3:07-cr-00154-JAG-3)

---

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ROGER CHARLES DAY, JR.

Defendant - Appellant

---

JUDGMENT

---

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

A<sub>2</sub>

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

---

**No. 19-6110**

---

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROGER CHARLES DAY, JR.,

Defendant - Appellant.

---

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. John A. Gibney, Jr., District Judge. (3:07-cr-00154-JAG-3)

---

Submitted: May 16, 2019

---

Decided: May 21, 2019

---

Before DIAZ and THACKER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

---

Affirmed by unpublished per curiam opinion.

---

Roger Charles Day, Jr., Appellant Pro Se.

---

Unpublished opinions are not binding precedent in this circuit.

*A*  
PER CURIAM:

Roger Charles Day, Jr., appeals the district court's order denying his motions under Fed. R. Crim P. 41(g) and Fed. R. Civ. P. 36. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *United States v. Day*, No. 3:07-cr-00154-JAG-3 (E.D. Va. Dec. 27, 2018). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED*

A4

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division

UNITED STATES OF AMERICA,

v.

Criminal Action No. 3:07-cr-154-03

ROGER CHARLES DAY, JR.,  
Defendant.

ORDER

This matter comes before the Court on the latest of many frivolous and meritless motions filed by the defendant Roger Charles Day, Jr. (Dk. Nos. 541, 548.) First, in a filing titled “MOTION under Rule 41(g),” Day says that federal agents seized evidence from Nathan Carroll, Day’s co-conspirator, but did not make a proper accounting of that evidence. (Dk. No. 541.) Federal Rule of Criminal Procedure 41(g) permits “[a] person aggrieved by an unlawful search and seizure of property or by the deprivation of property” to “move for the property’s return.” Fed. R. Crim. P. 41(g). Day, however, does not allege that investigators conducted an improper search or seizure of Carroll’s home or that Day owns any seized property. Because Day has filed an improper Rule 41(g) motion, the Court DENIES the motion. (Dk. No. 541.)

Second, in a filing titled “Rule 36 Request for Admission,” Day argues that he is entitled to discovery under Federal Rule of Civil Procedure 36 as to his Rule 41(g) motion. (Dk. No. 548.) Because Day filed an improper Rule 41(g) motion, the Court DENIES his related request for discovery under Federal Rule of Civil Procedure 36. (Dk. No. 548.)

It is so ORDERED.

Let the Clerk send a copy of this Order to all counsel of record and to Day by U.S. mail.

Date: 27 Dec. 2018  
Richmond, VA

151  
John A. Gibney, Jr.  
United States District Judge