

# APPENDIX

“A”

**UNPUBLISHED**

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

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**No. 22-6011**

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**UNITED STATES OF AMERICA,**

**Plaintiff - Appellee,**

**v.**

**THOMAS CREIGHTON SHRADER,**

**Defendant - Appellant.**

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Appeal from the United States District Court for the Southern District of West Virginia, at Bluefield. Irene C. Berger, District Judge. (1:09-cr-00270-1)

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**Submitted: March 24, 2022**

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**Decided: March 29, 2022**

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**Before MOTZ, WYNN, and RICHARDSON, Circuit Judges.**

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**Affirmed by unpublished per curiam opinion.**

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**Thomas Creighton Shrader, Appellant Pro Se.**

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**Unpublished opinions are not binding precedent in this circuit.**

PER CURIAM:

Thomas Creighton Shrader appeals the district court's order denying his "Motion for Clarification and Immediate Release of Defendant Pursuant to 18 U.S.C. § 3583." We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's judgment. *United States v. Shrader*, No. 1:09-cr-00270-1 (S.D.W. Va. Dec. 13, 2021). We deny Shrader's "Motion for Voidable Application" without prejudice to him filing it in the district court in the first instance.\* 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*

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\* We express no opinion on the ultimate disposition of the motion.

# APPENDIX

"B"

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

BLUEFIELD DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 1:09-cr-00270

THOMAS CREIGHTON SHRADER,

Defendant.

ORDER

The Court has reviewed the *Motion for Clarification and Immediate Release of Defendant Pursuant to 18 U.S.C §3583* (Document 552), in which the Defendant seeks to have his 5-year term of supervised release “immediately executed” or for the term “to immediately be terminated” from his sentence. For the reasons stated herein, the Court finds the Defendant’s Motion should be denied.

On November 18, 2010, this Court sentenced the Defendant to two hundred thirty-five (235) months of imprisonment to be followed by five (5) years of supervised release. (Documents 337 and 341). The Defendant argues that his term of supervised release is akin to parole, and therefore, should be considered part of his 235-month sentence. He asserts that enforcing a 5-year term of supervised release after imprisonment, would “illegally increase” his sentence from 235 months to 295 months “in violation of 18 U.S.C §3742(3).” (Document 522).

Despite the Defendant’s assertion, supervised release and parole are not the same. Because parole and supervised release are distinguishable, his arguments regarding parole are unpersuasive. While parole may ultimately decrease a prisoner’s maximum incarceration

exposure, a term of supervised release subjects an individual to a term of supervision after the period of incarceration has ended and, unlike parole, is a part of the original sentence. *See* 18 U.S.C. §3583. In sentencing the Defendant, this Court found a term of supervised release to be necessary and appropriate.

Further, the Defendant asserts that the imposition of five (5) years of supervised release is "above Shrader's maximum guideline range and illegal." (Document 552). This is simply incorrect. The sentence was within the guideline range and did not require this Court to impose an upward variance of any kind. As the Court detailed in imposing its sentence, the Defendant's offense level was calculated to be 33, with a criminal history category of IV. (Document 337 and 341). This established an advisory guideline range of 188–235 months of imprisonment and a supervised release range of 3-5 years. *Id.* This Court imposed a sentence within the guideline range and gave a detailed explanation of its reasons for doing so. The Defendant's arguments, therefore, lack merit and have no basis in law.

Wherefore, after careful consideration, the Court ORDERS that the *Motion for Clarification and Immediate Release of Defendant Pursuant to 18 U.S.C §3583* (Document 552) be DENIED. The Court DIRECTS the Clerk to send a copy of this Order to the Defendant and counsel, to the United States Attorney, to the United States Probation Office, and to the United States Marshal.

ENTER: December 13, 2021

  
IRENE C. BERGER  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA