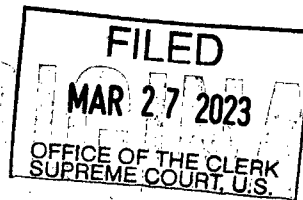


22-7251



No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

THOMAS CREIGHTON SHRADER — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FOURTH CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Thomas Creighton Shrader
(Your Name)
Reg. No. 08691-088
Federal Correctional Institution

(Address)
P.O. Box 9
Mendota, California 93640

(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- #1. When Congress by Statute has mandatorily set where the criminal Subject Matter Jurisdiction of the offense must be, was the Fourth Circuit in error to disregard said Statute and confer criminal Subject-Matter Jurisdiction elsewhere in violation of 18 USC §3232, 18 USC §2266(7)(B), 18 USC §2261A (2), Art. III §2, cl. 3 and the Sixth Amendment to the Constitution of the United States?
- #2. Did the United States Government as Plaintiff, per Art. III, have standing in the Southern District Court of West Virginia, when the actual gravamen per 18 USC §2266(7)(B) happened in the State of Texas where the government did have standing to afford a local district court Subject-Matter Jurisdiction?
- #3. Since Subject-Matter Jurisdiction can be raised at anytime, was the Fourth Circuit in error to affirm the judgement of the district court on a felony offense that did not occur within the trial courts territorial jurisdiction to give the said court venue for criminal subject-matter jurisdiction?
- #4. Does this courts supervisory jurisdiction in fastidious regard for honor in the administration of justice in the Federal Courts require Supervision of the Fourth Circuit Court of Appeals to acknowledge that said trial court lacked constitutional competence for criminal Subject-Matter Jurisdiction pursuant to Rule 18 of the Fed.R.Crim.P.?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4,5
REASONS FOR GRANTING THE WRIT.....	6 - 17
REASONS AND ARGUMENT IN SUPPORT OF QUESTION'S 1 - 4	8
FRUIT OF THE POISONOUS TREE.....	14
CONCLUSION.....	17

INDEX TO APPENDICES

APPENDIX A	Opinion of the 4th Cir. Ct. of Appeals
APPENDIX B	Decision of the District Court
APPENDIX C	4th Cir. Ct. Denial of Rehearing and Rehearing EnBanc
APPENDIX D	Applicable Exhibits, numbered as; D-1 through D-3

TABLE OF AUTHORITIES CITED

CASE	PAGE NUMBER
E.R. Squibb & Sons, Inc. v. Accident & Cas. Ins. Co. 160 F.3d 925, 929 (2nd Cir.1998)	09
Fitzgerald v. Seaboard Sys. R.R., 760 F.2d 1249, 1251 (11th Cir. 1985)	09
Henderson ex rel. Henderson v. Shinseki, 562 US 428, 434, 131 S.Ct. 1197, 179 L.Ed.2d 159 (2011)	12
John R. Sand & Gravel Co. v. United States, 552 US 130, 133-134, 139, 128 S.Ct. 750, 169 L.Ed.2d 591 (2008)	13
Kontrick v. Ryan, 540 US 443, 124 S.Ct. 906, 157 L.Ed.2d 867 (2004)	08
Morrison v. Allstate Indem. Co., 228 F.3d 155, 1260-61 (11th Cir. 2000)	09
Old Wayne Mut. I. Assoc. v. McDonough, 204 US 8, 27 S.Ct. 236 (1907)	10
Reed Elsevier, 130 S.Ct. 1237, 176 L.Ed.2d 18	13
Ruhrgas AG v. Marathon Oil Co., 526 US 574, 583, 119 S.Ct. 1563, 143 L.Ed.2d 210 (1989)	10
Schick v. United States, 195 US 65, 78, 24 S.Ct. 826, 831, 49 L.Ed. 99 (1904)	12
Travis v. United States, 364 US 631, 5 L.Ed.2d 340, 81 S.Ct. 358 (1961)	13
Tennessee v. Davis, 100 US 257, 263-64, 25 L.Ed. 648 (1879)	08
Union Pacific, 130 S.Ct. 584, 175 L.Ed.2d 428	13
United States v. Barsant, 943 F.2d 428, 434 (4th Cir. 1991)	12
United States v. Cobrales, 542 US 1, 7-8, 141 L.Ed.2d 1, 118 S.Ct. 1772 (1998)	12
United States v. Cotton, 535 US 625, 630, 122 S.Ct. 1781, 152 L.Ed.2d 860 (2002)	09, 10
United States v. Lombardo, 241 US 73, 77, 60 L.Ed. 897,898, 36 S.Ct. 508	13
United States v. Salinas, 373 F.3d 161, 164 (1st Cir. 2004)	09
United States v. Shrader, No. 10-5169, 2012 WL 1111654 (4th Cir. 2012)	06
United States v. Wilson, 262 F.3d 305, 320 (4th Cir. 2001)	12
Univ. of S. Ala. v. Am. Tobacco Co., 168 F.3d 405, 410 (11th Cir. 1999)	09

TABLE OF AUTHORITIES CITED (CONT.)

CASE	PAGE NUMBER
Walker v. United States, Case No. 11-8985, S.C.O.T.U.S. (2011)	06
Wong Sun v. United States, 371 US 471, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963)	15
STATUTES AND RULES	
18 USCS §2261A(2)	Passim
18 USCS §2266(2)	06, 07
18 USCS §2266(7)(B)	Passim
18 USCS §3231	11
18 USCS §3232	17
28 USCS Chapter 5 §124, Texas	11
Rule 18 of the Federal Rules of Criminal Procedure	11
OTHER	
United States Constitution Article III, §1.	08, 10
United States Constitution Article III, §2, cl.3	11, 12
Sixth Amendment	11, 12
22 C.J.S. Criminal Law §223 (2007)	09
Fifth Amendment	17

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was December 20, 2022.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: January 24, 2023, and a copy of the order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution Article III, §1;

U.S. Constitution Article III, §2, cl.3;

Fourth Amendment;

Fifth Amendment;

Sixth Amendment;

18 USCS §2261A(2)

18 USCS §2266(7)(B);

18 USCS §3231;

18 USCS §3232;

28 USCS - Chapter 5, §124 Texas;

STATEMENT OF THE CASE

In October 2009 Appellant mailed one letter from the State of West Virginia to D.S. in the State of Texas. From this one (1) letter a United States Magistrate Judge for the United States District Court For The Southern District of West Virginia issued an Arrest Warrant for Thomas Creighton Shrader in violation of 18 USC §2261A(2) for Stalking.

After a Second Superseding Indictment, "which contained a Second Count of Stalking", for D.S.'s husband R.S., as a victim from the same letter, (even though it was not addressed to him). Appellant went to trial and was found guilty on both Counts of Stalking. (counts 1 and 2).

Contrary to defendants attorney arguing on direct appeal that the unit of prosecution was the "course of conduct". The Appeals Court ruled that the **Unit Of Prosecution** was the "victim".

Per this ruling and holding, that the "victim" was the unit of prosecution and not the course of conduct then the United States District Court for the Southern District of West Virginia never had Subject-Matter Jurisdiction per this ruling.

In February 2022 Appellant/Defendant filed a Motion For Voidable Application, into the Fourth Circuit Court of Appeals, styled as; Thomas Creighton Shrader v. United States Court of Appeals For The Fourth Circuit Panel Justices; J. Harvey Wilkinson III, Diana Gribbon Motz, Dennis Shedd. Respondents. Based on their 2012 decision in defendant/Appellants direct appeal, To:Wit; "that 18 USC §2261 A(2) unambiguously makes the victim, rather than the course of conduct the Unit Of Prosecution."

On March 24, 2022 the Appeals Court in an unpublished per curiam held: "We deny Shrader's 'Motion For Voidable Application' without prejudice to him filing it in the district court in the first instance."

Appellant Shrader filed a, "Motion For Immediate Release and Order Null and Voiding Defendant/Petitioners 2010 Federal Conviction(s) and sentence pursuant to Fourth Circuit Court of Appeals Holding and Order, and later filed Addendum to said Motion."

Stating therein the United States District Court for the Southern District of West Virginia failed to have Subject-Matter Jurisdiction to try defendant.

In which defendant Shrader made the district court aware of facts, case law in support thereof and relevant USC Statutes stating the law.

The district court DENIED the Motion on August 02, 2022. (Appendix "B")

Appellant/Defendant Shrader did Appeal to the Fourth Circuit Court of Appeals on October 26, 2022 raising the following issue;

"Based on actual documented facts, [proven], did the United States Court for the Southern District of West Virginia err in not Granting Shrader's Motion for immediate release due to said courts lack of Subject-Matter Jurisdiction on Original charges?

The Appeals court affirmed the District Courts denial on December 20, 2022.

On January 03, 2023 Appellant Shrader filed a eleven (11) page petition for Rehearing and Rehearing En Banc.

On January 11, 2023 Shrader filed a Motion to file an Addendum of four (4) additional pages to be within the required maximum of fifteen (15) pages and submitted at the same time a four (4) page Addendum of supporting supplemental authorities.

The Appeals court denied the Motion for Rehearing and Rehearing En Banc on January 24, 2023.

The affirmation of the District Courts denial and the denial of the petition for Rehearing and Rehearing En Banc was "contrary" to the Constitution of the United States, cited Federal Statutes and this courts case law precedent case laws.

REASONS FOR GRANTING THE PETITION

This is a great opportunity for this court to address the Circuit Split(s) on 18 USC §2261A(2) in compliance with the required "Definitions" at 18 USC §2266 (2) and §2266(7)(B), on which District has Subject-Matter Jurisdiction for Trial.

At Definitions;

§2266(2) - Course of conduct. The term "course of conduct" means a pattern of conduct composed of 2 or more acts, evidencing a continuity of purpose.

§2266(7)(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction in which the injury occurred or where the victim resides.

The different Circuits cannot even agree on what the "unit of prosecution" is for this 1996 enacted Statute. Appellant Circuit Courts have no ground rules or parameters to go by which can be seen and proved from the following two (2) cases, charging 18 USC §2261A(2) violations.

The first case is; Walker v. United States, Case No. 11-8985 filed into the Supreme Court of the United States, quoting from the United States brief in Opposition filed by Joel M. Gershowitz, for the Department of Justice.

The defendant, "Jeffrey Martin Walker", while in the State of Michigan stalked his wife and son in Puerto Rico by e-mail in four (4) of the counts charging Stalking in violation of 18 USC §2261A(2) by a Federal Grand Jury in Puerto Rico.

In this Brief in Opposition it was the D.O.J.'s position that the "unit of prosecution" under section 2261A(2) was each use of the mail or email in the furtherance of the "course of conduct".

Whereas in Appellant's case, United States v. Shrader, No. 10-5169, 2012 WL 1111654 (4th Cir. April 4, 2012). Shrader's defense attorneys had argued that the "unit of prosecution" was the "course of conduct" as a whole. But the Fourth Circuit in its opinion stated the "victim" was the "unit of prosecution". Contrary to the D.O.J.'s position that it was not the total "course of conduct" but each communication that made up the "course of conduct" was chargeable.

In Shrader's §2261A(2) charge he sent one (1) letter from the State of West Virginia to his former fiancée of thirty-five (35) years ago at that time, "D.S." in the State of Texas.

Whereas the crime of Stalking took place in the State of Texas, like Walker's

took place in Puerto Rico. Yet, the government tried Shrader in the State of West Virginia where no crime of Stalking had taken place.

In Walker, he was in violation of §2266(2) "course of conduct" with two (2) or more acts evidencing a continuity of purpose for violation of 18 USC §2261A(2). Which "requires" per the language of the Statute a "person" in another State or tribal jurisdiction must be harmed.

While Shrader on the other hand only had mailed one (1) letter and was not in violation of §2266(2) "course of conduct" to be charged with Stalking in violation of 18 USC §2261A(2).

This clearly shows a Circuit Split in more ways than one. What is the applicable "unit of prosecution"? 1.) The course of conduct?; 2.) Each individual act making up the course of conduct?; or, 3.) The victim, as the Fourth Circuit ruled?

In Shrader's case - said letter was addressed solely to D.S. with restricted delivery by U.P.S., yet, the U.P.S. driver allowed D.S.'s husband (R.S.) to sign for the letter. Which he then opened and read in Texas, then called the F.B.I. in West Virginia and said his wife had received a extortion letter. Without a warrant the FBI agent had R.S. to email him the letter and after reading the letter the FBI Agent told R.S. that they could charge Shrader with Stalking. Take Notice that if it had been a threatening letter or contained any threats the government would have charged Shrader for mailing a threatening letter in violation of 18 USC §§ 875 or 876. With the government not charging either shows the letter contained no threats. Or an extortion letter Shrader would have been charged with extortion.

The FBI and R.S. kept this letter from "D.S." until three (3) days after Shrader's arrest by the FBI. D.S. did not read the letter until November 16, 2009 and the Warrant for Shrader's Arrest was issued on November 12, 2009 with Shrader being arrested in West Virginia on November 13, 2009. For a crime of Stalking against D.S. who had not even received or read said letter to put her in any harm or fear at the time of Shrader's arrest for Stalking D.S. when it had not even transpired. (See Appendix D, at D-1 Warrant; at D-2 Email date of 11/17/09).

From the Statutory wording of §2261A(2) of "who the victim could be", the government charged Shrader with another count of Stalking, from one (1) letter contrary to Shrader's intent of only D.S. receiving said letter.

In Walker's case, he was Stalking his wife and teenage son, but Puerto Rico only charge Walker with Stalking his wife.

Puerto Rico had Subject-Matter Jurisdiction in Walker's case, but the Federal government in the State of West Virginia failed to have Subject-Matter Jurisdiction

in Shrader's case. As no offense of Stalking occurred in the State of West Virginia. There is no agreement on the unit of prosecution causing a circuit split.

Please take Judicial Notice of this court's Opinion's and Holdings in the following two (2) cases as the foundation of Shrader's contention!

The First case is; Tennessee v. Davis, 100 U.S. 257, 263-64, 25 L.Ed. 648, (1879)(Under Article III, Section 2 of the United States Constitution both civil and criminal cases are "equally within the domain of the judicial powers of the United States, and there is nothing in the grant to justify an assention that whatever power may be exerted over a civil case may not be exerted fully over a criminal one.")

The second case is: Kontrick v. Ryan, 540 U.S. 443, 124 S.Ct. 906, 157 L.Ed. 2d 867 (2004)(Only Congress may determine a lower federal court's Subject-Matter Jurisdiction, United States Constitution Article III, §1.)

REASON AND ARGUMENT IN SUPPORT OF QUESTION'S 1 - 4

The pertinent part of the 2006 VERSION of 18 USC §2261A(2), (which Shrader and Walker were indicted and tried under) states;

(2) with the intent -

- (A) to kill, injure, harass, or place under surveillance with intent to kill, injure, harass, or intimidate, or cause substantial emotional distress to a person in another State or tribal jurisdiction or within the special maritime and territorial jurisdiction of the United States; or
- (B) to place a person in another State or tribal jurisdiction, or within the special maritime and territorial jurisdiction of the United States, in reasonable fear of the death or serious bodily injury to -
 - (i) that person;
 - (ii) a member of the immediate family (as defined in section 115 of that person);
 - (iii) a spouse or intimate partner of that person;

uses the mail, any interactive, computer service, or any facility of interstate or foreign commerce to engage in a course of conduct that causes substantial emotional distress to that person or places that person in reasonable fear of the death or, serious bodily injury to any of the persons described in clauses (i) through (iii) of subparagraph (B);

shall be punished as provided in section 2261(b) of this title.

The First Circuit Court ruled in the case of; United States v. Salinas, 373 F. 3d 161, 164 (1st Cir. 2004) (Congress may, if it so desires, prescribe venue requirements for a particular crime. If Congress adopts such a Statute, "that provisions must be honored (assuming of course, that it satisfies the constitutional minims"))).

"Venue" means the "district in which a court with jurisdiction may hear and determine a case." 22 C.J.S. Criminal Law §223 (2007).

At 18 USC §2266 for "Definitions" for [18 USCS §2261 et seq.] states the following verbatim at §2266(7)(B);

- (B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction in which the injury occurred or where the victim resides.

Federal Courts are courts of limited jurisdiction and can hear only cases for which there has been a congressional grant of jurisdiction. Morrison v. Allstate Indem. Co., 228 F.3d 155, 1260-61 (11th Cir. 2000)(citing Univ. of S. Ala. v. Am, Tobacco Co., 168 F.3d 405, 410 (11th Cir 1999)). Because subject-matter jurisdiction is defined by statute. "[I]t cannot be created by the consent of the parties, nor supplanted by consideration of convenience and efficiency." Id. (citing Fitzgerald v. Seaboard Sys. R.R., 760 F.2d 1249,1251 (11th Cir. 1985). E.R. Squibb & Sons, Inc. v Accident & Cas. Ins. Co., 160 F.3d 925, 929 (2d Cir. 1998)).

Subject-Matter Jurisdiction can "never be forfeited or waived", "it involves a court's power to hear a case." United States v. Cotton, 535 U.S. 625, 630, 122 S.Ct. 1781, 152 L.Ed.2d 860 (2002).

In applying the aforesaid cases of Davis, supra and Ryan, supra, in a civil action as clearly shown in the above paragraph the District Court must dismiss any action in which said court does not have Subject-Matter Jurisdiction.

Applying the "facts" of Davis whatever power (rulings & application) exerted over a Civil Case have to be exerted and applied fully over a criminal case. Without Subject-Matter Jurisdiction a criminal case must be dismissed.

Congress by virtue of the Sixth Amendments clause of; "...which district shall have been previously ascertained by law," did mandate by determination that Federal District Courts had Subject-Matter Jurisdiction only of offenses that occurred within their Territorial Boundaries. With an exception to conspiracies pursuant to; "any portion".

In 18 USC §2261A(2) Congress used the clear language that the Stalking has

to occur to a, "person in another State". Meaning if the perpetrator is in the same State as the victim then there is no crime. Pursuant to the language of §2261A(2) the perpetrator has to be in a different State from the State that the victim is in when the offense occur's.

The Subject-Matter of the offense is, "Stalking" of a person, and pursuant to 18 USC §2266(7)(B) Congress manifested the person has to be, "protected by the domestic or family violence law of the State jurisdiction in which the injury occurred or where the victim resides." Which assigns Subject-Matter Jurisdiction.

As this Honorable Court stated in Ryan, supra - "Congress may determine a lower federal court's Subject-Matter Jurisdiction per United States Constitution Article III, §1."

This is exactly what Congress did in and with 18 USC §§2261A(2) and 2266(7) (B), (i.e. "person in another States Jurisdiction".)

Therefore, by LAW and applicable STATUES the Fourth Circuit Court was in grave error to "Affirm" the District Courts "Denial" of Shrader's Motion for immediate release and to vacate all Federal convictions due to the District Courts lack of Subject-Matter Jurisdiction.

When a party suggest the absence of Subject-Matter Jurisdiction, even, "at this late stage of a case, the party questions not only the ORIGINAL conviction, but the POWER to sentence or reduce the sentence..." (See generally Cotton, 535 U.S. at 630; Steel-Co. v. Citizens for Better Env't., 523 U.S. 83, 89, 118 S.Ct. 1003, 140 L.Ed. 2d 210 (1989).

"This is because Subject-Matter Jurisdiction can 'never be forfeited or waived', it involves a courts power to hear a case. Cotton, 535 at 630. Any action by a court without Subject-Matter Jurisdiction is 'Ultra Vires' and therefore void. Ruhrgas AG v. Marathon Oil Co., 526 U.S. 574, 583, 119 S.Ct. 1563, 143 L.Ed.2d 760 (1999) (quoting Steel Co., 523 U.S. at 101-02)".

Courts are constituted by authority and they cannot legally go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their ORDERS ar regarded as nullities. They are not voidable, but simply VOID, and this prior even to reversal. (Emphasis Added). Old Wayne Mut. I. Assoc. v. McDonough, 204 U.S. 8, 27 S.Ct. 236 (1907).

Appellant Shrader's two Stalking convictions (from one letter)(See Appendix "D" at D-1), in the United States District Court for the Southern District of West Virginia was in violation of and did not comport to; 18 USC §3232 - District of Offense - RULE, then cite's Fed.R.Crim.P. Rule 18.

RULE 18

"Unless a statute or these rules permit otherwise, the government must prosecute an offense in the district where the offense was committed. The court must set the place of trial within the district with due regard for the convenience of the defendant, any victim, and the witnesses, and the prompt administration of justice."

Then 18 USC §3231 - District Court;

"The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States."

Appellant Shrader acknowledges §3231 does give Federal District Courts exclusive jurisdiction over State courts for all offenses against the laws of the United States.

Shrader concedes district courts have jurisdiction of all offenses against the laws of the United States but with the *EXPLICIT* distinction that said jurisdiction only applies to the district courts jurisdiction within its Congressional assigned Territorial District. Thus having Subject-Matter Jurisdiction over said offenses that happen or occur within its set Territorial boundaries of its district, and not foreign districts outside its own district.

Shrader sent the letter from the Southern District of West Virginia to Sugar Land, Texas. Sugar Land is in Fort Bend County. Pursuant to Title 28 USC Chapter 5 §124 Texas; Fort Bend County is in the Southern District of Texas in the Houston Division. Court for the Houston Division shall be held in Houston.

Therefore, since the alleged crime of Stalking happened in SugarLand, Texas, Fort Bend County. Any and all charges per Subject-Matter Jurisdiction would have had to be by an Arrest Warrant issued by a United States Magistrate Judge in the Houston Division of the Southern District Court for Texas.

The Constitution of the United States; at Article III, §2, cl.3, in part;

"The trial of all Crimes,...shall be by Jury, and such Trial shall be held in the State where the said Crimes shall have been committed..."

The Sixth Amendment to the Constitution of the United States; in part;

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury

of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law,..."

The first Justice Harlan in a dissenting opinion summarized the purpose of the Sixth Amendment in; Schick v. United States, 195 U.S. 65, 78, 24 S.Ct. 826, 831, 49 L.Ed. 99 (1904); as follows,

"Those who opposed the acceptance of the Constitution said, among other things, that the words of that instrument, strictly construed. (Art. 3, §2) admitted of a secret trial, or of one that might be indefinitely postponed to suit the purposes of the Government, or of one taking place in a State or District other than that in which the crime was committed. The framers of the Constitution disclaimed any such evil purposes; but in order to meet the objection of it's opponents, and to remove all possible ground of uneasiness on the subject, the Sixth Amendment was adopted. In which the essential features of the trial required by Section 2 of Article 3 are set forth (emphasis added)."

The affirmation by the Fourth Circuit that the Southern District Court of West Virginia did have Subject-Matter Jurisdiction to "try" a Federal offense of Stalking that happened in the State of Texas is a Circuit Split of great magnitude. From the other Circuits who charge and "TRY" the defendant in the State and District that the said Stalking under 18 USC §2261A(2) occurred in.

Until the "person in another State", becomes a "victim" of Stalking there is no crime or federal offense to charge said offender in violation of any law.

It was the independent obligation of the United States District Court for the Southern District of West Virginia to determine that Subject-Matter Jurisdiction is proper and that the court "do[es] not exceed the scope of [its] jurisdiction..." Henderson ex rel. Henderson v. Shinseki, 562 U.S. 428, 434, 131 S.Ct. 1197, 179 L.Ed.2d 159 (2011).

As a general proposition, venue is proper in any district where the Subject Crime was committed. United States v. Wilson, 262 F.3d 305, 320 (4th Cir. 2001)(citing U.S. Const. Art. III, §2, cl. 3; Fed. R. Crim. P. 18).

Proper venue in a criminal prosecution is a Constitutional Right, United States v. Barsant, 943 F.2d 428, 434 (4th Cir. 1991). Venue is limited to the place "where the criminal act is done". Anderson, 328 U.S. at 705. See also United States v. Cobrales, 542 U.S. 1, 7-8, 141 L.Ed.2d 1, 118 S.Ct. 1772 (1998).

Whether Congress has clearly expressed its intent in jurisdictional terms need not use magic words in order to speak clearly on this point. "[C]ontext

including this Court's interpretation of similar provisions in many years past, is relevant." Reed Elsevier, supra, at --, 130 S.Ct. 1237, 176 L.Ed.2d 18. When "a long line of this Court's decisions left undisturbed by Congress" Union Pacific, supra, at --, 130 S.Ct. 584, 175 L.Ed.2d 428, has treated a similar requirement as "jurisdictional," we will presume that Congress intended to follow that course. See John R. Sand & Gravel Co. v. United States, 552 U.S. 130, 133 - 134, 128 S.Ct. 750, 169 L.Ed.2d. 591 (2008).

This Honorable Court in 1961 did decide such a case! It was; Travis v. United States, 364 US 631, 5 L.Ed.2d 340, 81 S.Ct. 358 (1961), the Supreme Court,

"reading 18 USCS §3237(a) in light of federal constitutional requirements and the plain language of §9(h) of the Taft-Hartley Act (former 29 USCS 159 (h)) (repealed after prosecution commenced in the case at hand), reversed a Federal Court of Appeals' judgement and decided that an alleged violation of 18 USCS § 1001- which then punished one who knowingly makes any false statement within the jurisdiction of any department or organization of the United States by filing a false non-Communist affidavit with the National Labor Board (NLRB) was triable only in the district where the false affidavit was filed, irrespective of where the affidavit was executed or mailed. Accordingly, the court held that the venue of a trial of a labor union officer accused of executing a false non-Communist affidavit in Colorado and filing it with the NLRB in Washington, DC, was improperly laid in Colorado, because § 9(h) did not require the filing of a non-Communist affidavit, but provided that the NLRB make no investigation and issue no complaint in certain matters unless such an affidavit was on file with the NLRB. The Supreme Court reasoned that there was no offense committed until the completion of the filing of the affidavit in Washington, DC, and pointed out that even after the affidavit had been mailed, it might have been lost or the accused might have recalled it himself. Venue should not be made to depend on the chance use of the mails, when Congress has so carefully indicated the locus of the crime. We think that the correct view when 18 USC §3237 is read in light of the constitutional requirements and the explicit provision of § 9(h). The locus of the offense has been carefully specified, and only the single act of having a false statement at a specific place is penalized. The rationale of United States v. Lombardo, 241 US 73, 77, 60 L.Ed. 897, 898, 36 S.Ct. 508, a case involving a failure to file, is therefore equally applicable here. We conclude that venue lay only in the District of Columbia."

In Travis, supra the Subject-Matter of the offense was, "filing a false non-Communist affidavit with the National Labor Board in Washington, DC as specified."

Pursuant to this courts opinion and ruling the only place said prosecution could be had was in Washington, DC, as that is where the offense had to take place giving Washington, DC Subject-Matter Jurisdiction over said offense.

The principals of the Travis case is analogous to Congresses enactment of 18 USC §2261A(2) and qualified by 18 USC §2266(7)(B). Inasmuch as the specific offense of Stalking had to occur to a "person in another States jurisdiction" who was protected by the domestic or family violence laws of that State in which the injury occurred or where the victim resides.

Travis mailed his affidavit from Colorado, (where Shrader sent his letter from West Virginia). Travis could only be tried in Washington, DC upon the completion of the filing of said affidavit, (where in Shrader's case there was no Stalking until the "person" (addressee) received said letter and READ said letter to be injured) wherever that happened was the "locus" of the crime of Stalking giving the local Federal District Court Subject-Matter Jurisdiction over said offense. In the Travis case, Colorado failed to have Subject-Matter Jurisdiction and was not triable in Colorado as per the Statute involved could only be violate in Washington, DC. In Shrader's case even though he sent the letter from West Virginia no Stalking occurred in West Virginia and said Stalking therefore was not triable in West Virginia. As no Stalking occurred until after the "person" (addressee) in another State received said letter and was injured.

The Fourth Circuit has set a dangerous precedent, which one or more of the other twelve (12) Circuits may copy cat. Since as of this date thusfar the Fourth Circuit has gotten away with conferring obstruction of the Sixth Amendment and 18 USC §§2261A(2) and 2266(7)(B) which clearly "ascertained as to which 'district' federal criminal trials for Stalking can take place."

FRUIT OF THE POISONOUS TREE

It is Appellant Shrader's contention based upon the facts thusfar stated and of his argument herein. Which clearly aggregate the applicable Statutes Congress manifested a charge of Stalking in violation of 18 USC §2261A(2) per 18 USC §2266(7)(B) to a person [victim] who is in another State and protected by the domestic or family violence law of the State or tribal jurisdiction in which the injury occurred or where the victim resides.

A review of the ~~ARREST WARRANT~~ for Thomas Creighton Shrader, (See Appendix "D" at D-1") issued by the Honorable R. Clarke Vandervort United States Magistrate Judge, for and in the United States District Court for the Southern District of

West Virginia on November 12, 2009. Clearly states and reflects in the charged offense the following summarization; "Thomas Creighton Shrader, on October 26, 2009 sent "a" [singular -one] letter from Bluefield, West Virginia to a person [the person being "her" per the charge] in the State of Texas, to put "her" the recipient, and her immediate family in a reasonable fear of the death, or serious bodily injury to, the recipient and "her" immediate family."

This Arrest Warrant in and of itself describes exactly where the injury to "her" and "her" immediate family took place. In the State of Texas. (emphasis added).

As the Arrest Warrant clearly shows and states, it did NOT take place anywhere within the United States Territorial District of the United States District Court for the Southern District of West Virginia. In which to give legal authorization to United States Magistrate Judge R. Clarke Vandervort the authority to issue an Arrest Warrant for an alleged Stalking charge that took place in the State of Texas. Which was clearly outside Judge Vandervort's Territorial Jurisdiction and the Judge had no Subject-Matter Jurisdiction of any offense by Thomas Creighton Shrader within his Territorial Jurisdiction that Thomas Creighton Shrader had violated.

Therefore, everything from the issuing of the Arrest Warrant for Thomas Creighton Shrader by the West Virginia United States Magistrate Judge Vandervort for the offense of Stalking in Fort Bend, Texas was illegal. Shrader's Arrest on said illegal Warrant and everything involved with the Arrest was, "Fruit of The Poisonous Tree", Wong Sun, 371 US 471, 81 S.Ct. 407, 9 L.Ed. 441.

There was no probable cause for an Arrest in West Virginia due to lack of Subject-Matter Jurisdiction. Because 18 USC §2266 clearly sets forth elements of probable cause at §2266(2) - "course of conduct, of two (2) or more acts" and at §2266(7)(B), "in the jurisdiction of the State where the injury occurred or the victim resides, who is protected by domestic or family violence laws."

No alleged victims in Shrader's Arrest Warrant lived in the State of West Virginia, to be protected by the State of West Virginia's domestic or family violence laws as no injury happened to said victim(s) in West Virginia.

United States Magistrate Judge Vandervort usurped his authority and legal power by issuing an unauthorized and illegal Arrest Warrant for Thomas Creighton Shrader.

Shrader never pled guilty to anything and stood trial on all counts. On November 18, 2010 in the United States District Court for the Southern District of West Virginia, the Honorable Art. III Judge Irene C. Berger sentenced Shrader

to 235 months with five years supervised release.

Please take Judicial Notice to the fact that Shrader never knowingly waived any Constitutional Rights and refused to plead guilty to a proffer 18 month sentence and the dropping of Count 3. Which charged Shrader with being an Ex-Felon in possession of a Firearm.

Shrader knew he was innocent and "at that time" believed in the system and could prove his innocence. Due to the following solid ground reasons; 1.) Per 18 USC §2266(2) it requires two (2) or more acts to be in violation of 18 USC §2261A(2), and the Arrest Warrant as "FACT" only charge Shrader with ONE (1) act of sending a letter. There was no SECOND act. The government knew this was the truth - so what did the government do? They charged Shrader with a Second Count of Stalking with D.S. husband R.S. being the second victim to make the sending of one (1) letter two acts.

As for the firearms. The State of West Virginia had Restored Shrader's civil rights with a Certificate of Discharge from Parole and Restoration of ANY and ALL civil rights. (See Appendix "D at D-3").

However in my case, the Fourth Circuit won't Honor Congresses authorized Statute 18 USC §921(a)(20), where if your Civil Rights have been restored by the State then said prior offense SHALL NOT be considered a conviction for purposes of 18 USC §922(g)(1) unless said restoration expressly provides that the person may not ship, transport, possess, or receive firearms. As you can see from Shrader's restoration issued by the State of West Virginia in February 1999 of Shrader's civil rights did NOT expressly prohibit Shrader from shipping, transporting, receiving or possessing Firearms. (Emphasis Added)

When the FBI arrested Shrader at his sister's house on the Arrest Warrant for Stalking, the FBI asked Shrader if there were any guns in the house. Thinking it could be a trick question to charge Shrader for lying and in fear of being harmed, Shrader told him the truth and said yes. Shrader was arrested in the front yard of his sister's house. They wanted to go in and search and Shrader told them no.

There was a total of eleven officers to arrest one person, so seven of the officers stayed at the residence until Shrader 86 year old sister returned from town two (2) hours later and bullied her into letting them search. Where they got two (2) hunting shotguns and a .22 varmet rifle. Out of Shrader's gun cabinet which they did not have a warrant to search or permission from me and my sister could not give them permission to search my enclosed gun cabinet.

Therefore, ALL of this is Fruit of The Poisonous Tree, due to said illegal issuance of said Arrest Warrant by the United States Magistrate Judge R. Clarke

Vandervort in the State of West Virginia for a Stalking offense that did not occur within the Southern District of West Virginia, but in fact in the Southern District of Texas, in Fort Bend County - Houston Division. The actions by United States Magistrate Judge R. Clarke Vandervort clearly violated Shrader's due process rights under the Fifth Amendment and his equal protection!

CONCLUSION

The prior citations of Davis, Ryan, Salines, Travis, supra, along with Art. III, §2, cl.3, the Sixth Amendment and Rule 18 of the Fed.R.Crim.P., in consideration of 18 USCS §3232 - District of Offense. All support conclusively, in addition to the charging Statutes themselves, (i.e. 18 USCS §§ 2261A(2) and 2266(7)(B) mandate what district court is assigned Subject-Matter Jurisdiction per Ryan supra.)

In Shrader's case of Stalking, it was the United States District Court for the Southern District of Texas at Houston, Texas for Fort Bend County, where the alleged Stalking took place. (One letter does not violate the Stalking Statute). Only the District Court in Texas had Subject-Matter Jurisdiction to issue an Arrest Warrant for Thomas Creighton Shrader, if a federal offense had happened within the Territorial district of the Southern District Court of Texas.

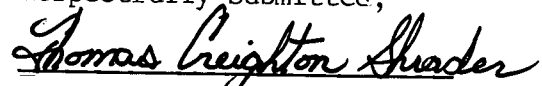
No United States Magistrate Judge within and for the United States District Court for the Southern District of West Virginia had Jurisdiction outside his limited designated Territorial Jurisdiction, to issue an Arrest Warrant for a federal offense that happened in another federal district in the State of Texas.

This Court should enforce the wording of Stalking Statutes and confirm that only the State where the Stalking occurred to the victim is the district which has Subject-Matter Jurisdiction to pursue federal charges.

THEREFORE, this Honorable Court should GRANT Certiorari to stop this practice before it spreads like a virus to other Circuits, and use your supervisory authority to set the Fourth Circuit straight on enforcing the law and the United States Constitution to the lower District Courts in it's circuit, in upholding the 4th, 5th, and 6th Amendments to the United States Constitution.

This 27th day of March 2023.

Respectfully Submitted,


Thomas Creighton Shrader