

APPENDIX

A

UNPUBLISHED

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

No. 22-6971

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

THOMAS CREIGHTON SHRADER,

Defendant - Appellant.

**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)**

Submitted: December 15, 2022

Decided: December 20, 2022

Before GREGORY, Chief Judge, and WILKINSON and DIAZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Thomas Creighton Shrader, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thomas Creighton Shrader appeals the district court's order denying his "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," as supplemented, and his "Motion for Voidable Application." 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. Aug. 2, 2022). 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

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 Defendant's *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* (Document 568), and the *Addendum to Petitioner's Motion for Immediate Release and Order Null and Voiding Defendant/Petitioner's 2010 Federal Conviction(s) and Sentence Pursuant to Fourth Circuit Court of Appeals Holding and Order* (Document 572) and its attachments, including the *Defendant's Motion for Voidable Application* (Attachment 2 to Document 572). In all three documents, the Defendant, now more than ten years after the issuance of its *Opinion* (Document 362) affirming his convictions and sentence, claims the Fourth Circuit's findings therein reveal that this Court did not have the requisite subject matter jurisdiction to preside over the trial of his case. He argues that this merits his immediate release and vacating his convictions as detailed in the *Judgment* (Document 341). The Court finds that the motions should be denied.

Even when examined under the less stringent standard afforded pro se defendants, the Defendant's motions are not only lacking in merit, but frivolous, particularly given the repeated

denials of multiple collateral attacks and the current motions being based on language from an opinion issued a decade ago. The Defendant has not identified any valid legal avenue to pursue the relief requested. However, in issuing this ruling, the Court sets aside any potential procedural issues of waiver.

On June 8, 2010, the Defendant was charged in a Second Superseding Indictment with two counts of Stalking by Use of Interstate Facility in violation of 18 U.S.C. § 2261A(2) (Counts 1 and 2) and one count of being a Felon in Possession of a Firearm (Count 3). (Document 123.) This Court granted the Defendant's motion to sever counts. (Document 82.) On July 14, 2010, a jury found the Defendant guilty of being a Felon in Possession of a Firearm. (Documents 220, 222 and 224.) On August 20, 2010, a second jury found the Defendant guilty of two counts of Stalking by Use of Interstate Facility. (Documents 294 and 297.) On November 18, 2010, this Court sentenced the Defendant to 235 months of imprisonment to be followed by a period of five years supervised release. (Documents 341.)

On November 24, 2010, the Defendant, by counsel, filed a Notice of Appeal. (Document 343.) On April 4, 2012, the Fourth Circuit Court of Appeals affirmed the Defendant's conviction and sentence. *United States v. Shrader*, 675 F.3d 300 (4th Cir. 2012). The Defendant filed a petition for certiorari in the United States Supreme Court, which was denied on December 3, 2012. *Shrader v. United States*, 133 S.Ct. 1320 (2012).

One of the issues raised in the original appeal of his convictions and sentence was the Defendant's claim that the two stalking convictions were multiplicitous because the stalking statute's unit of prosecution was the conduct that the Defendant engaged in. Specifically, he argued that the statute permitted only one punishment for a course of conduct regardless of the

Conviction(s) and Sentence Pursuant to Fourth Circuit Court of Appeals Holding and Order
(Document 568) and the Defendant's *Motion for Voidable Application* (Attachment 2 to Document 572) 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 Office of the United States Marshal.

ENTER: August 2, 2022


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

APPENDIX

C

FILED: January 24, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-6971
(1:09-cr-00270-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

THOMAS CREIGHTON SHRADER

Defendant - Appellant

ORDER

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Chief Judge Gregory, Judge Wilkinson, and Judge Diaz.

For the Court

/s/ Patricia S. Connor, Clerk