

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-7439

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID HILL,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at
Alexandria. Claude M. Hilton, Senior District Judge. (1:01-cr-00191-CMH-1)

Submitted: May 25, 2023

Decided: May 31, 2023

Before AGEE and DIAZ, Circuit Judges, and MOTZ, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

David Hill, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Hill, a federal inmate, appeals the district court's order issuing a prefilings injunction in his criminal proceeding. Upon review of the record in conjunction with the arguments pressed on appeal, we conclude that the court did not abuse its discretion in issuing the injunction. *See Cromer v. Kraft Foods N. Am., Inc.*, 390 F.3d 812, 817-18 (4th Cir. 2004) (stating standard of review and providing four-factor test). Accordingly, we affirm the district court's order. *United States v. Hill*, No. 1:01-cr-00191-CMH-1 (E.D. Va. Nov. 30, 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 EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA,)	
)	
Plaintiff/Respondent,)	Criminal Case No. 1:01-cr-191
)	
v.)	
)	
DAVID HILL,)	
)	
Defendant/Petitioner.)	
)	

ORDER

THIS MATTER comes before the Court on its previous Order on October 3, 2022, indicating its intention to issue a prefiling injunction against Defendant David Hill to prevent the further waste of judicial resources.

As required by Cromer v. Kraft Foods N. Am., Inc., 390 F.3d 812, 819 (4th Cir. 2004), the Court provided Defendant notice of its intended prefiling injunction and gave him an opportunity to demonstrate why such a measure was unwarranted. Defendant filed his opposition on October 24, 2022.

After reviewing the record and filings, the Court still finds it appropriate to impose a prefiling injunction against Defendant enjoining him from instituting or filing any new civil actions, habeas corpus petitions, petitions for writs of mandamus, motions under § 2255, or actions raised under vehicles of litigation

arising from or relating to his criminal proceedings unless he obtains preapproval of a judicial officer of the Court.

Before issuing a prefiling injunction against a party, courts must consider the following factors to comply with a litigant's due process rights:

(1) the party's history of litigation, in particular whether he has filed vexatious, harassing, or duplicative lawsuits; (2) whether the party had a good faith basis for pursuing the litigation, or simply intended to harass; (3) the extent of the burden on the courts and other parties resulting from the party's filings; and (4) the adequacy of alternative sanctions.

Cromer, 390 F.3d at 818.

For the same reasons outlined in this Court's earlier Order against Defendant on January 26, 2022, all the Cromer factors weigh in favor of the issuance of a prefiling injunction. First, Defendant has filed over four-hundred documents in a roughly twenty-year period, repeatedly bringing frivolous and duplicative motions with arguments already rejected countless times by this Court. Second, Defendant's repeated insistence on raising legal arguments rejected both by this Court and the Fourth Circuit suggests he lacks a good faith basis for his litigation tactics. Because he had no reasonable expectation that these motions would be granted, it can be inferred his conduct was intended to harass this Court and other involved parties. Third, the record amply demonstrates that Defendant's voluminous and unmeritorious filings have wastefully consumed the resources of the Fourth Circuit, the

United States Attorney's Office, the undersigned, this Court's Clerk's Office, judicial assistants, law clerks, and staff attorneys, all of whom have expended a significant amount of time processing his papers, evaluating his claims, and reviewing related decisions. Fourth, given that Defendant has refused to accept the finality of this Court's previous orders, is not set to be released from prison until 2075, and has no means of paying a monetary fine, there is no alternative sanction that can adequately address Defendant's vexatious conduct besides the issuance of a prefiling injunction.

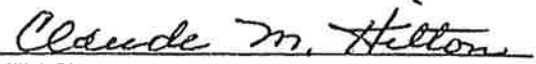
In addition to considering the aforementioned factors, courts must also ensure that any prefiling injunction is "narrowly tailor[ed] to fit the specific circumstances at issue." See Cromer, 390 F.3d at 818. The scope of the prefiling injunction will only prevent Defendant from attempting to relitigate his criminal proceedings, which has been the focus of his frivolous filings. The Court will ensure that any restrictions on his ability to file habeas petitions will be consistent with the exceptions to rules prohibiting successive habeas petitions, and the Court will apply those rules when screening defendant's future pleadings. Moreover, under the terms of the prefiling injunction, Defendant will retain access to the courts to ensure his rights to medical attention and certain conditions of confinement are protected. Therefore, the Court finds that the scope of the prefiling injunction is

appropriately narrow under the circumstances. For these reasons, it is hereby

ORDERED that Defendant is ENJOINED from filing in the Eastern District of Virginia any additional actions, pleadings, motions, or other papers that relate to this criminal proceeding, unless he first obtains leave of court from a judicial officer to do so. As part of any application for leave to file a new challenge to his criminal conviction or sentence, Defendant must attach a copy of this Order and a detailed written statement explaining why the new request is materially different from any of those previously filed.

To appeal this decision, Defendant must file a Notice of Appeal ("NOA") with the Clerk's Office within fourteen days of the date of this Order. Defendant need not explain the grounds for appeal until so directed by the appellate court. Failure to file a timely NOA waives the right to appeal this Order.

The Clerk is directed to send a copy of this Order to Defendant.


CLAUDE M. HILTON
UNITED STATES DISTRICT JUDGE

Alexandria, Virginia
November 30, 2022

FILED: August 1, 2023

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FOR THE FOURTH CIRCUIT

No. 22-7439
(1:01-cr-00191-CMH-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

DAVID HILL

Defendant - Appellant

O R D E R

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 Diaz, Judge Agee, and Senior Judge Motz.

For the Court

/s/ Patricia S. Connor, Clerk