

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CRIMINAL ACTION  
 :  
 v. :  
 :  
 NORMAN SHELTON, : NO. 92-590-01  
 Respondent. :

**SURRICK, J.**

**JULY 12, 2013**

**MEMORANDUM**

On May 15, 2013, Petitioner filed a “Writ for Audita Querela.” Petitioner argues that his conviction and sentence should be vacated because there was no evidence presented to support the elements of the crimes for which he was convicted. Petitioner was convicted of bank robbery, conspiracy, and related offenses on April 16, 1993. The Court of Appeals for the Third Circuit affirmed his conviction and sentence on July 6, 1994. Petitioner subsequently filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 which was denied on March 26, 1997. Petitioner later filed a motion for habeas corpus relief pursuant to 28 U.S.C. § 2241 and a motion pursuant to 18 U.S.C. § 2582(c)(2) to modify his sentence. Both were denied.

Petitioner may not seek to have his conviction invalidated nor seek sentencing relief via a petition for writ of audita querela. The writ has been abolished with respect to civil cases, *See* Fed.R.Civ.P 60(e), and is only available in limited circumstances with respect to criminal convictions “to the extent that it fills in the gaps in the current system of post-conviction relief.” *Massey v. United States*, 581 F.3d 172, 174 (3d Cir. 2009); *In re Dorsainvil*, 119 F.3d 245, 248 (3d Cir. 1997). The instant matter does not present such a circumstance. There is no gap here to fill. “Where a statute specifically addresses the particular issue at hand, it is that authority, and

not the All Writs Act, that is controlling.” *Id.* Petitioner may only challenge his conviction and sentence via a motion pursuant to 28 U.S.C. § 2255. *Id.* Petitioner has already filed such a motion which was denied. Consequently, he “may not seek relief through a petition for a writ of audita querela on the basis of his inability to satisfy the requirements of the Antiterrorism and Effective Death Penalty Act of 1996.” *Id.* Contrary to his assertions Petitioner has not presented any extraordinary circumstances that warrant granting him a writ of audita querela. Therefore his petition will be denied.

An appropriate Order follows.

**BY THE COURT:**

**/s/R. Barclay Surrick**  
**U.S. District Judge**

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Respondent.	:	

**ORDER**

**AND NOW**, this 12<sup>th</sup> day of July, 2013, it is **ORDERED** that Petitioner's Writ for Audita Querela is **DENIED**.

**IT IS SO ORDERED.**

**BY THE COURT:**

/s/R. Barclay Surrick  
**U.S. District Judge**