

UNPUBLISHED

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

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

ROSS MICHAEL WITHROW,
Defendant-Appellant.

No. 01-4653

Appeal from the United States District Court
for the Southern District of West Virginia, at Charleston.
John T. Copenhaver, Jr., District Judge.
(CR-01-58)

Submitted: December 10, 2001

Decided: January 7, 2002

Before MICHAEL, MOTZ, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Mary Lou Newberger, Acting Federal Public Defender, George H. Lancaster, Jr., Assistant Federal Public Defender, Charleston, West Virginia, for Appellant. Charles T. Miller, United States Attorney, Steven I. Loew, Assistant United States Attorney, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Ross Michael Withrow pled guilty to possession of an unregistered, altered shotgun in violation of 26 U.S.C. §§ 5861(d), 5871 (1994), conditioned upon his right to appeal the district court's ruling on his motion to suppress evidence of the shotgun. For the reasons to follow, we affirm.

We agree with the district court that West Virginia State Trooper Larry O'Bryan's seizure of the loaded shotgun was allowed under the Fourth Amendment's officer safety exception. *See Maryland v. Buie*, 494 U.S. 325, 334 (1990); *United States v. Bernard*, 757 F.2d 1439, 1443 (4th Cir. 1985); *United States v. Baker*, 577 F.2d 1147, 1152 (4th Cir. 1978). We do not find that the district court's factual findings regarding the seizure were clearly erroneous or that the court's decision to deny the motion to suppress was error. *See United States v. Rusher*, 966 F.2d 868, 873 (4th Cir. 1992).

Accordingly, we affirm Withrow's conviction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED