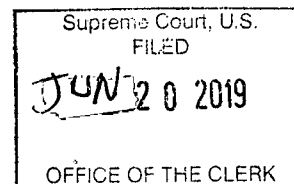


19-5056

No. \_\_\_\_\_



\_\_\_\_\_  
IN THE  
SUPREME COURT OF THE UNITED STATES  
\_\_\_\_\_

BYRON RANDALL FISHER — PETITIONER  
(Your Name)

vs.

RICHMOND THE AMERICAN INTERNATIONAL UNIVERSITY IN LONDON, INC. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Second Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Byron Randall Fisher  
(Your Name)

919 Garfield Street  
(Address)

Peekskill, NY 10566  
(City, State, Zip Code)

(706) 570-8316  
(Phone Number)

ORIGINAL

### **QUESTION(S) PRESENTED**

Did the lower courts violate the constitutional rights of an Iraq War Veteran (Petitioner) by allowing the Respondent to utilize the same falsified evidence that was previously used to impede an investigation conducted by the United States Department of Veterans Affairs?

Did the lower courts ignore binding precedent by ruling in favor of a litigant that engaged in Spoliation of Evidence?

## 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:

Byron Randall Fisher  
Billy Ray Fisher  
Henryette Bunn Fisher  
Calvin Beason Fisher

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#### **STATUTES**

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IN THE  
SUPREME COURT OF THE UNITED STATES  
  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☒ reported at N/A; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☒ reported at N/A; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was May 8, 2019.

☐ 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: June 13, 2019, 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**

United States Constitution, Amendment V:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.



## STATEMENT OF THE CASE

Byron Randall Fisher (Petitioner) is an Iraq War Veteran who was promoted to the rank of Captain prior to receiving an Honorable Discharge from the United States Army. Subsequent to leaving the U.S. Army, the Petitioner enrolled in a master's program (financed by the Post-9/11 GI Bill) in International Relations at Richmond The American International University in London (Respondent). The Petitioner's thesis, a university requirement for a master's degree, was written per university guidelines, yet it was unfairly awarded a failing grade of C- as opposed to a passing grade of B or better. The Petitioner appealed, per regulations cited in the Student Handbook; however, the university failed to provide the Petitioner with an explanation regarding the refusal to award the thesis a fair and passing grade.

On February 3, 2014, the Petitioner received an e-mail from Richmond The American International University in London stating that the Petitioner had successfully completed their degree requirements at the university. Subsequent to the receipt of the said e-mail by the Petitioner, the Respondent, Richmond The American International University in London sent the Petitioner an official transcript (Dated April 1, 2014) via DHL stating that the Petitioner had been awarded both a Master of Arts and a Post Graduate Certificate on January 24, 2014. Rosemary Royds, the Academic Registrar at Richmond The American International University in London, signed the said transcript. However, the Respondent subsequently declined to award the Petitioner a Master of Arts degree. In 2016, the Petitioner filed a complaint with the United States Department of Veterans Affairs (VA) via the Principles of Excellence Complaint System (Complaint Case Number VA7475). One of the issues raised by the Petitioner in the complaint was that the Respondent declined to award him a Master of Arts, despite the fact that the Respondent sent the Petitioner an official transcript stating that he had been awarded the said degree. The VA closed the Petitioner's complaint (in favor of the Respondent) on August 8, 2016 and subsequently forwarded to the Petitioner the Respondent's response to the complaint. The Respondent's response to the Petitioner's complaint included an altered version of the Petitioner's transcript in which the award of a Master of Arts had been omitted. The Petitioner, subsequently, pursued legal action against the Respondent through the United States District Court for the Southern District of New York. On November 17, 2017, the Respondent's attorney (Samuel Feldman) assisted his client in submitting to the court, as part of their motion for summary judgment, two copies of the same altered transcript that had been previously submitted to the VA. During a previously held deposition, the Respondent's attorney was made aware that the Respondent submitted an erroneous transcript to the VA.

The act of the Respondent submitting an altered version of the Petitioner's transcript in response to an inquiry conducted by the United States Department of Veterans Affairs (VA) constitutes a violation of 18 U.S. Code § 1001 and 18 U.S. Code § 1519. The act of the Respondent's attorney assisting his client in submitting two copies of the said altered transcript to the lower court constitutes a violation of 18 U.S. Code § 1519 by both the Respondent and their attorney. The actions of the Respondent's attorney also constitute a violation of the New York Rules of Professional Conduct (Rule 3.4). Additionally, all of the acts described above constitute a violation of Federal Rule of Civil Procedure 37(e).

The Petitioner sought a default judgment in the lower courts due to the criminal acts of the Respondent. However, both the United States District Court for the Southern District of New York and the United States Court of Appeals for the Second Circuit incorrectly ruled that the transcript submitted by the Respondent to the VA and lower court was a "corrected" transcript. This is not true, as the transcript in question had not been signed by the Respondent's Academic Registrar.

## **REASONS FOR GRANTING THE PETITION**

This court should grant this petition in order to ensure that the constitutional rights of America's veterans are not infringed upon and to make sure that federal appellate circuits maintain uniformity among their decisions.

In *Bolling v. Sharpe*, this court found that the due process clause of the Fifth Amendment to the United States Constitution prohibits the federal government from denying a citizen of life, liberty, or property. The lower courts denied the Petitioner liberty by allowing the Respondent to utilize falsified documents in order to gain an advantage in litigation.

In *United States v. Rowland*, the United States Court of Appeals for the Second Circuit affirmed that “[creating] or [participating] in the creation of documents that [misrepresent] – or [falsify the truth] [...] with the intent to impede [a federal investigation]” is a crime under 18 U.S. Code § 1519. Despite this fact, the lower courts ignored binding precedent and ruled in favor of a Respondent that utilized fabricated evidence in order to obstruct federal investigations.

This case presents this court with an opportunity to show the country that veterans are entitled to the same rights they risk their lives to preserve. This case also provides this court with the opportunity to make certain that the lower courts do not provide favorable treatment to litigants that engage in criminal acts.

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ben Randall Fish

Date: June 26, 2019