

No. 23-7575

IN THE
SUPREME COURT OF THE UNITED STATES

OSCAR DILLON III

Petitioner,

v.

UNITED STATES OF AMERICA

Respondent.

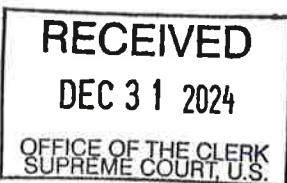
On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Eighth Circuit

PETITION FOR REHEARING

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PRO'SE
FILING

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RULE 44.2 CERTIFICATE

Pursuant to Rule 44.2, the undersigned hereby certifies that the attached petition for rehearing of an order denying writ of certiorari is restricted to the grounds specified in Rule 44.2: it is limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented. Petitioner further certifies that the attached petition is presented in **Good Faith and not for delay**.

By: 
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PETITION FOR REHEARING

Pursuant to Rule 44.2 of the Rules of the United States Supreme Court, Petitioner respectfully petitions for rehearing of this Court's October 7, 2024 Order denying the petition for writ of certiorari.

REASON FOR GRANTING THE PETITION FOR REHEARING**A Court Must Enforce Plain And Unambiguous Statutory Language According To Its Terms:**

Rule 44.2 of the Rules of the Supreme Court of the United States allow petitions for rehearing of the denial of a petition for writ of certiorari and permits rehearing on the basis of "intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented."

Here, a substantial ground not previously presented warrants a rehearing. Briefly and distinctly, on June 28, 2024 this Court ruled in **Favor** of Joseph W. Fischer, and its currently reported as **Fischer v. United States**, 144 S. Ct. 2176 219 L.Ed. 2d 911 (2024). And in light of Fischer, *Id.*, involving critically important questions concerning the ambit of **18 U.S.C. section 1512 (c)(2)**, the United States Court of Appeals of the District of Columbia reported as **United States v. Fischer**, 64 F.4th 329, 460 US App. D.C. 315, 2023 US App LEXIS 8284, 2023 WL 2817988 (Apr. 7, 2023) subsequent to this Supreme Court's June 28, 2024 ruling in **favor** of Fischer the Court of Appeals for the District of Columbia not only on July 30, 2024, vacate Fischer's case, No. 22-3038, but also on August 5, 2024 **Lang v. United States**, No. 22-3039, and **Miller v. United States**, No. 22-3041, for further consideration in light of **Fischer v. United States**, 144 S Ct. 2176 (2024).

This Honorable Supreme Court's holding in Fischer is that Section 1512 (c)(2) must involve evidence tampering related to documents and records or other objects or things. Therefrom, **Mr. Dillon** was nevertheless incorrectly and unjustly denied relief.

In light of the United States Supreme Court's recent June 28, 2024 decision in *Fischer v. United States*, 144 S. Ct. 2176, 219 L. Ed. 2d 911 (2024), warrants this Court's rehearing and/or a vacate and remand as a result.

A. This Is An Appropriate Case For Rehearing

The Honorable Court recently concluded that the word "otherwise" links subsection (c)(1) with subsection (c)(2), in that subsection (c)(2) is best read as a catchall for the prohibitions delineated in subsection (c)(1). And as a result for a defendant's conduct to fall within the ambit of subsection (c)(2), the defendant must "have taken some action with respect to a document, record, or other object in order to corruptly obstruct, impede or influence an official proceeding". *United States v. Miller*, No. 21-cr-00119, DKT. No. 72, 2022 U.S. Dist. LEXIS 45696, at *39 (D.D.C. Mar. 7, 2022).

United States v. Fischer, 64 F.4th 329, 460 U.S. App. D.C. 315, 2023 U.S. App. Lexis 8284, 2023 WL 2817988 (Apr. 7, 2023) in its ANALYSIS determined that (Faced with these ... competing interpretations of the statute concluded that the government has the best of this argument). *Fischer* Id. at [460 U.S. App. D.C. 321]. Furthermore, the District of Columbia Court of Appeals concluded that a "natural broad reading of this statute is consistent with prior interpretations of the words it uses and the structure it employs." And that "the terms "obstruct," "influence," and "impede" can be found several statutes pertaining to criminal obstruction of justice, such as 18 U.S.C. section 1503, which targets "corruptly influen[ing], obstruct[ing], or imped[ing], the due administration of justice" ; and section 1505... in the same, "due and proper administration of Law" in certain proceedings and investigations. *Fischer*, Id. at [460 U.S. App D.C. 322].

Subsequently this Honorable United States Supreme Court as an elicitor disagreed stating: "The Government's reading of Section 1512 would intrude on that deliberate arrangement of constitutional authority over federal crimes, giving prosecutors broad discretion to seek a 20-year maximum sentence for acts Congress saw fit to punish only with far shorter terms of imprisonment - for example, three years for harassment under section 1512 (d)(1), or ten years for threatening a juror under section 1503. *Fischer*, Id., 219 L. Ed.2d at 926.

Noteworthy, Mr. Dillon raised this very argument as referenced to the above examples on pp. 15-16 in (Appendix One) which is attached to this Petition for Rehearing. Please see.

The Supreme Court reasoned with respect to the government's reading of section 1512. Thus, the government's instrusion on the deliberate arrangement of constitutional authority over federal crimes as juxtaposed to section 1503 which was raised by Mr. Dillon on pp.15-16 of his Appendix and that is also part of the record before the Eighth Circuit, his (**Mr. Dillon's**) alleged conduct does **not** fall within the ambit of section's 1512 (c)(2) charge. Please compare pp. 15-16 of Appendix One that's attached hereto, to Mr. Dillon's original Petition for Writ of Certiorari's **Appendix C, at pp. A57-A59.** It was not alleged that any physical object was compromised, nor of any obstructive behavior that might constitute a more specific offense such as: documents, records or other things, which is now befitting to the new intervening changes of law set forth in the Supreme Court's June 28, 2024 decision in the now infamous **Fischer** case. See **Fischer**, Id., 219 L. Ed at 923-24.

Empirically, based on a thorough analysis, respective to the Supreme Court's findings in **infamous Fischer** case, as referenced herein **Mr. Dillon** stands wrongfully convicted as charged pursuant to **18 U.S.C. section 1512 (c)(2).** Thereby his **Petition for Rehearing** should be construed as submitted in **good faith.** And in light of **Fischer**, **vacated** and **remanded.**

Given the specifics expatiated in Chief Justice Robert's and Justice Brown's Opinion in **Fischer v. United States**, 144 S. Ct. 2176 219 L. Ed. 2d 911 (2024), it absently included that respective to **§1512 (c)(2)**, and its Holding thereof, it only applies to the ones' charged in the event taking place at the **Capitol** on **January 6, 2021.** Thereby, **Petitioning for a Rehearing** in light of **Fischer**, makes the caption matters at hand **Justiciable.**

**SUMMARY OF RELEVANT FACTS AND
PRIOR PROCEEDINGS OCCURRING BELOW**

In the Eastern District of Missouri on Case No. 4:15-cr-00404-HEA/NAB ("404-HEA") Mr. Dillon was indicted by grand jury, in violation of 21 U.S.C. § 841 (a)(1) and 846 conspiracy to distribute controlled substances ; 18 U.S.C. § 1956 (a)(1)(B)(i), and (h) conspiracy to commit money laundering; and 18 U.S.C. § 1512 (c)(2) attempt obstruction of justice, knowingly corruptly obstructing, influencing, and impeding an official proceeding.

On April 7, 2021, a jury found Mr. Dillon guilty on all charges; After filing an appeal, on December 19, 2023, the U.S. Court of Appeals for the Eighth Circuit affirmed ; On May 28, 2024, Mr. Dillon's Petition for Writ of Certiorari was docketed with the United States Supreme Court. No. 23-7575; While his Petition for Writ of Certiorari was pending respective to the **Double Jeopardy** claim to be referenced below, on June 28, 2024, this Supreme Court rule in favor of what is reported as *Fischer v. United States*, 144 S. Ct. 2176 219 L.Ed. 2d 911 (2024); because Fischer is directly relevant to Mr. Dillon's claims before the Eighth Circuit Court of Appeals challenging the ambit to which § 1512 (c)(2) was charged, on August 12, 2024, in compliance with Supreme Court's Rule 15, he Supplemented his Petition for Writ of Certiorari to address that in light of Fischer his (Mr. Dillon's) Certiorari should be granted; on October 7, 2024 this Supreme Court denied his Petition for Writ of Certiorari.

It should be noted that the alleged conduct to which Mr. Dillon was charged pursuant to §1512 (c)(2) was contradicted by the government's own witness. Elicited at trial was (Terry)'s sworn proffered statement that he advised Dillon that he (Terry) should probably stay away....Trial Transcript Tr. Vol.8, p. 170. But the Eighth Circuit misapprehended these facts to which prompted [the]charge pursuant to § 1512 (c)(2).

After the Eighth Circuit's December 19, 2023 denial of Mr. Dillon's appeal, initiating his original Petition for Writ of Certiorari was resounding Constitutional Fifth Amendment Double Jeopardy violations with respect to "**ACQUITTED CONDUCT**". And this was following the trial also in the Eastern District of Missouri, Case No. 4:17-cr-00095 ("95-RWS") there-to-which Mr. Dillon was tried by a jury in violation of 21 U.S.C. § 841 and 846, but ultimately acquitted on all charges. As a result of subsequently being tried on 404-HEA and twice being put in Jeopardy wherewith the **acquitted conduct** from 95-RWS in its entirety used on 404-HEA in its trial, albeit there existed no overlapping actors or alleged conduct, Mr. Dillon felt that he was Constitutionally bound to reverence concerns before this Honorable United States Supreme Court. And as a result **CERT.# 23-7575 was born.**

In the aftermath of the Eighth Circuit's December 19, 2023, denial of Mr. Dillon's appeal, February 21, 2024 this U.S. Supreme Court decided --- *McElrath v. Georgia*, 601 U.S. 87 (2024). Its opinion echoed far-reaching implications regarding **Double Jeopardy** to a culminate extent that it necessitated using that Precedence as a predicate to which Certiorari was sought. The implications are so far-reaching that the United States Sentencing Commission referenced *McElrath v. Georgia*, in its reasoning captioned to the prohibition in using acquitted conduct in sentencing. It can be inferred that the U.S. Sentencing Commission's reasons for citing *McElrath* in its 2024 Amendments To The Sentencing Guidelines, Policy Statements, And Official Commentary was to make disjunctive distinctions with regards to double jeopardy between theory and practice as though it debunked *United States v. Watts*, 519 U.S. 148, 154 (1997). Whatever it may be, most consciently sound Americans agree that in accordance with the 5th Amendment nobody should be twice put in jeopardy.

CONCLUSION

For the foregoing reasons, and those stated in the petition for writ of certiorari, the Court should grant rehearing and the petition for writ of certiorari. Also, since this petition for rehearing is being submitted pro se it is respectfully requested that it be liberally construed in accordance with *Haines v. Kerner*, 404 U.S. 519, 520 (1972).

Respectfully Submitted,



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CERTIFICATION OF GOOD FAITH

I, Oscar Dillon III, Pro'se Petitioner, certify this motion is made in
good faith and not for any delay .

Prior to this Court's recent decision in **Fischer v. United States**, now infamous to this Petition for Rehearing sought, **Mr. Dillon's** averments argued before the district court in his entitled motion: "**DEFENDANT GRADY AND DILLON'S MOTION FOR JUDGMENT OF ACQUITTAL, OR ALTERNATIVELY FOR NEW TRIAL**", pp.13-16, of (Appendix One) which was part of the record before the Eighth Court of Appeals, preceding Fischer's June 28, 2024 decision it is now known that Mr. Dillon's arguments with respect to the statutory interpretation pursuant to 18 U.S.C. section 1512 (c)(2) were sufficient.

Having to waver the semantics as to the statutory interpretation in the Eighth Circuit's use of **United States v. Petruk**, 781 F.3d 438, 441 (8th Cir. 2015) justifying the means to deny Mr. Dillon's appeal respective to section 1512 (c)(2), should now therefore be vacated based on the Supreme Court's contravening position as referenced in Fischer, Id.

Thus, since the decision in Fischer, the logical question arises in how is this Honorable Supreme Court will move forward as to Mr. Dillon's equitable claims that in light of Fischer his Petition for Rehearing stands justiciable. Wherefore, relief is so **PRAYED**.

I declare under the penalty of perjury the foregoing is true and correct to the best of my own knowledge. Executed this 20th day of December, 2024.


Oscar Dillon III
Pro'se Petitioner

**Additional material
from this filing is
available in the
Clerk's Office.**