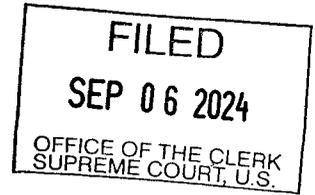


No. 24 - 5983



In the

# Supreme Court of the United States

---

Trevor Taylor,

Petitioner,

v.

DENIS MCDONOUGH, SECRETARY OF VETERANS AFFAIRS,

Respondent

---

ON PETITION FOR A WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT

---

CORRECTED PETITION FOR A WRIT OF CERTIORARI

---

Trevor Taylor

3152 Ann Arbor-Saline Rd., 201

Ann Arbor, MI. 48103

(360) 660-6202

trevorst@umich.edu

October 29, 2024

## Two Questions Presented

#1 - “If the allegations occurred of obstruction of justice, fraud on the court, and evidence tampering, which led to prejudicial losses with harmful error, can the CAVC and CAFC ignore it, or should they have gotten involved, and if they can disregard it, does this lead to an absurd legal position that cheating is okay, and thus should be abandoned forthwith?”

#2 - “Can the CAVC and CAFC replace allegations of cheating with unsuitable statements such as ‘We don’t have the jurisdiction to readjudicate the claim facts,’ especially when the the Justice lawyer agreed that the evidence had been switched?”

All parties appear in the caption of the case on the cover page.

### Statement of Jurisdiction

- 1) In the Agency appeal of Trevor Taylor, No: 230917-377155, Board of Veterans' Appeals, For the Secretary of Veterans Affairs, Judgement entered October 31, 2023.
- 2) *Taylor v. McDonough*, No: 23-6758, United States Court of Appeals for Veterans Claims, Judgement entered 3/22/2024.
- 3) *Taylor v. McDonough*, No: 24-1642, United States Court of Appeals for the Federal Circuit, Judgement entered 9/6/2024.

---

-Note: Non-attorney, *pro-se* appellant used a 7-day free trial to Lexis+ to help with the following research burden. I labored to learn how to make this packet and the results are natural. Any document filed *pro se* is "to be liberally construed," and "a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." Nevertheless, the Supreme Court has held that a *pro se* complaint must at least show that the pleader is entitled to relief.

-2nd note: The Justice lawyer, Ms. Bartelma, for USCA FC No: 24-1642 agreed that the evidence was switched, on page 20 of her brief (document 18 at CAFC), when she wrote, "Mr. Taylor additionally complains that the VA's brief

“pirated and committed swindling by switching the sections in the audiologist’s report” – an apparent reference to the VA brief mistakenly attributing a statement to the wrong “section” of the report.”

---

The CAVC then “dismissed based on the merits,” rooted on something, I’m not sure of what, as they didn’t address the important main legal issue of government council misconduct. My position on this is, “Who cares about the claim facts right now? If cheating is involved, that’s the infection that must be treated immediately with medicine.” Courts are required by the Judicial Council to fix these events. As a citizen, self-represented, how can I be wrong if the career Justice lawyer, with decades of experience, concurred in her brief?

I have the option to later re-submit the medical issue to the VA as a supplemental claim, but if the courts openly allow *actus reus* - the act or the physical act, then, in military disability claims it would include the submission of a fraudulent opening brief, then the Fruit of the Poisonous Tree Doctrine should apply, which is a rule under which evidence, that is the direct result of illegal conduct, is inadmissible. The doctrine draws its name from the idea that once the tree is poisoned (the primary evidence is illegally obtained), then the fruit of the tree (any secondary evidence), is like-wise tainted and may also not be used.

Note: I don’t get it. Isn’t cheating always a simple issue that every person on Earth can appreciate? Why do the lower courts make it seem like it’s a complex

legal issue that only scholars can understand? That is the epitome of fatuity - that only elite folks with advanced University degrees can understand the idea of bunco. "The People" know when they're being gold-bricked. Specific narrow jurisdiction isn't required for a court to adjudicate it - it's a wildcard that they must mend.

The Veteran wasn't arguing the facts of the adjudication, he was asking for a chance at a fair claim adjudication in the first instance and reporting the misconduct. Both courts dismissed/affirmed stating that I wanted to readjudicate the issues, for which they stated they don't have jurisdiction, but I wasn't - I was reporting wrongdoing and thus, a vacate/remand/reverse would be appropriate to speak to the allegations. If it's true, "that I just don't understand because I didn't go to law school," then the law should be changed so that folks acknowledge it. That small part of the law doesn't work.

---

### Opinions Below

Attached (previously mailed with first version):

Board opinion, CAVC two opinions, CAFC opinion.

---

### Constitutional and Statutory Provisions Involved

*-Yates v. United States*

Supreme Court of the United States Feb 25, 2015 574 U.S. 528 U.S. Federal

OVERVIEW: Court of Appeals for the Eleventh Circuit erred when it found that fishing boat captain was properly convicted of violating 18 U.S.C.S. § 1519 because he told member of his crew to throw undersized fish overboard after he was told by government agent to return those fish to port; term “tangible object” that appeared in § 1519 did not include fish.

*-Republican Party v. Degraffenreid*

Supreme Court of the United States Feb 22, 2021 141 S. Ct. 732 U.S. Federal

... ago, a congressional election in North Carolina was thrown out in the face of evidence of tampering with absentee ballots. Because fraud is more prevalent with mail-in ballots, increased use of those ballots raises the likelihood that courts will be ...

*-Fischer v. United States*

Supreme Court of the United States Jun 28, 2024 144 S. Ct. 2176 U.S. Federal

OVERVIEW: Per the *noscitur a sociis* and *ejusdem generis* canons of construction and in light of its history, the "otherwise" clause of 18 U.S.C.S. § 1512(c)(2) was designed by Congress to capture other forms of evidence and other means of impairing its integrity or availability beyond those Congress specified in 18 U.S.C.S. § 1512(c)(1).

*-Pugin v. Garland*

Supreme Court of the United States Jun 22, 2023 599 U.S. 600 U.S. Federal

OVERVIEW: An offense may relate to obstruction of justice under 8 U.S.C.S. § 1101(a)(43)(S) even if the offense did not require that an investigation or proceeding be pending because individuals could obstruct the process of justice even when an investigation or proceeding was not pending.

*-United States v. Dunnigan*

Supreme Court of the United States Feb 23, 1993 507 U.S. 87 U.S. Federal

OVERVIEW: Respondent was properly given an enhanced sentence because the U.S. Constitution permitted a court to enhance respondent's sentence under federal sentencing guidelines where the court found that respondent committed perjury at the trial.

*-14A M.J. OBSTRUCTING JUSTICE § 2*

Interfering with Performance of Official Duties.—|Secondary Materials

Obstruction of justice does not occur when a person fails to cooperate fully with an officer or when the person's conduct merely renders the officer's task more difficult or frustrates his or her investigation. Courts have previously applied a two step analysis to determine whether the evidence was sufficient to prove obstruction of justice under the Virginia statute. First, the evidence must be sufficient for a rational fact finder to conclude that the accused's actions did, in fact, prevent a law enforcement officer from performing his duties. Second, the evidence must be sufficient for a rational fact finder to conclude that the accused acted with an intent to obstruct—i.e., prevent—an officer from performing his or her duty.

*-The Sixth Circuit* has quoted, with approval, a definition of fraud on the court that consists of five elements: (1) conduct on the part of an officer of the court; (2) that is directed to the “judicial machinery” itself; (3) that is intentionally false, willfully blind to the truth, or is in reckless disregard of truth or falsity; (4) that is a positive averment or is a concealment when one is under a duty to disclose; and (5) that deceives the court. Thus, misconduct of an officer of the court is an essential element of fraud on the court; but there is fraud on the court only if this misconduct precludes proper adjudication by the court.

*-12 Moore's Federal Practice - Civil § 60.21*

“Fraud on the court” is defined in terms of its effect on the judicial process, not in terms of the content of a particular misrepresentation or concealment. Fraud on the court must involve more than injury to a single litigant; it is limited to fraud that “seriously” affects the integrity of the normal process of adjudication. Fraud on the court is limited to fraud that does, or at least attempts to, “defile the court itself” or that is perpetrated by officers of the court “so that the judicial machinery can not perform in the usual manner its impartial task of adjudging cases.”

*-§ 14:130.1. Obstruction of justice*

LA - LexisNexis® Louisiana Annotated Statutes|La. R.S. § 14:130.1s|Statutes  
Tampering with evidence with the specific intent of distorting the results of any criminal investigation or proceeding which may reasonably prove relevant to an investigation or proceeding. Tampering with evidence shall include the intentional

alteration, movement, removal, or addition of any object or substance either: At the ...place of review of any such evidence.

---

### Statement of Case

This involves the government council at the Dept. of Veterans Affairs, actually a law student at the time (not a lawyer), who switched the evidence twice in her brief, to her benefit and against the disabled Veteran. And it worked as she heartily won.

The CAVC and CAFC does have jurisdiction over all issues involving fraud done during their hearings as spelled out in their authorization.

As a regular citizen/veteran, I would like to say for the issue of cheating in Court, ALL cases in all courts are directly related. It's *ipso facto*, if there is a court case, cheating won't be involved and that the hearings have been certified, in a way, as truthful.

Obstruction of justice, fraud on the court and evidence tampering isn't allowed. It's elementary for daily operations that officers of the court won't do it. Yet they blatantly did and the two lower-courts must be interested in the Supreme Court reviewing the matter as they obviously have jurisdiction to clean up dishonesty in their Courts that isn't harmless error, but rather expensive error. It was not harmless because the event caused a surprise hospital stay for surgery, and those bills are prejudicial losses.

---

**First Cheating Event**

(switched audiogram sections)

Appellee council wrote in her brief that the Veteran misunderstood the audiologist's notes in section four of the medical exam, and then went on to discuss section four and how it made his informal brief infertile in the Judge's eyes. But this was brazen fraud and lawyer-cheating because section four is mostly blank except the word, "No," as it was section five that had the quoted verbiage about repetition, but she got an advantage by calling it section four as that explained away the audiologist shouting the SRT phrases at me many times to see if I could repeat them back (they must be said only in a normal voice). This was calculated because the disabled Veteran is very sick and the law student thought impeded too, thus an easy quarry.

Appellee Council got away with it despite Veteran raising it multiple times in complaints and motions. No matter, the DIY Veteran was wrong each time.

Veteran's right to a transparent appeal was ruined as the non-attorney committed swindling by switching the sections in the audiologist's report and neither VA or CAVC/CAFC leaders would get involved to restore it or even explain it as an innocent error. I asked the student, Sarah E. Long, to resolve her mistake many times so it wouldn't flatten my appeal, but there was no response. This grad student was lecturing a Desert Storm Veteran that it's a dog-eat-dog world. Or she was caught and "like a deer in the headlights." Similarly, the CAVC judges also

acted this way, perhaps dismayed that a 20-something, the VA general council honors student, had tricked them.

The CAVC & CAFC incorrectly applied the law when they allowed blatant brief double-dealing for which they were explicitly notified. Both courts may have determined their actions were correct, but the Supreme Court can ensure that the law has been appropriately applied to the case.

---

**Second Cheating Event** (fake recreation of audiogram test results)

Appellee Council (law student) wrote of the Veteran, "In his informal brief, the appellant contends that several of these entries reflect a [1991 handwritten number] 26 rather than a 20. Appellant's informal brief at 8-9, 11-12, 18."

But instead, it shows a year 2023-made graphic at the top of the page for the wrong hearing results. I'm referring to the handwritten Exhibit A in my CAVC informal brief, the Desert Storm exit hearing test, but appellee council is showing a digital, typed-up hoax of that hearing test, which doesn't show the upper-tails of the number "6." This is another idea of the law student. She has therefore told the Judge that the graphic box she did perhaps on her phone in 2023 was the audiogram handwritten by the doctor in 1991 in W. Germany (although she wasn't born yet).

My informal brief explains this many times. She switched the evidence twice and together, it seems like funny business because it later caused stress,

leading to a surprise illness requiring surgery (harmful error losses). Tampering with evidence is an act in which a person alters, conceals, falsifies, or destroys evidence with the intent to interfere with an investigation (usually) by a law-enforcement, governmental, or regulatory authority. "Spoliation is the destruction or significant alteration of evidence, or failure to preserve property for another's use as evidence in pending or reasonably foreseeable litigation." *West v. Goodyear Tire Rubber Co.*

This whole situation is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or without observance of procedure required by law. It doesn't take due account of the Secretary's application of section 5107(b) or the rule of prejudicial error.

---

### Reasons for Granting the Writ

This is an important public issue. Are the Courts malodorous or will they stamp out perfidiousness against taxpayers? It doesn't seem like it's a conflicted concept, yet the CAVC and CAFC have re-opened this debate about government lawyer misconduct (in this case it was a law student), which is judicial activism. Despite the cheating, which was not harmless error as it involved \$35,000 in hospital bills, their absurd legal positions support it and thus, denial of military disability benefits

involving Special Monthly Compensation (SMC) and bilateral hearing loss. Ergo, according to them, artifice is okay as long as it denies SMC (the most-ill Veterans get SMC).

---

### Conclusion

No other court but this one can fix the problem, as the Federal Circuit has exclusive subject matter jurisdiction over Veterans Court appeals. 38 U.S.C. § 7292(c). The Supreme Court's intervention is thus amply warranted and urgently needed, because it continues to ruin patriotic lives everyday. Unfortunately, the recognition of obstruction of justice, fraud on the court and evidence tampering isn't universally recognized in the court system and that's a peculiar development. Is revisitation needed?

Are the lower-courts interested in a ruling involving a law student?

Although she wasn't legally installed to replace a licensed lawyer, as CAVC has a court rule about it involving a dozen strict details that need to be followed, and of course, they didn't obey any off them, including getting the Veteran's permission to accept a kid as the government representative (I would have objected as she doesn't understand the complexities of SMC).

In sum, they showed "straight from the shoulder" disrespect to a possibly-terminal ill Veteran with nearly the top medical rating. To then be burdened with cheating from a child serving as appellee council, in the complex field of law, is