

No. 25–1021

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**In the Supreme Court of the United States**

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RICHARD CORNELIUS JACKSON,

Petitioner,

*v.*

DEPARTMENT OF HOMELAND SECURITY,

Respondents.

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

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**PETITION FOR REHEARING**

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Richard Cornelius Jackson  
1023 25th Ave  
Bellwood, IL 60104  
(312) 285-6390  
Rcjackson83@outlook.com

*Pro Se Petitioner*

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Petitioner Richard Cornelius Jackson respectfully petitions this Court for rehearing of its Order of April 20, 2026, denying certiorari. This Court did not have newly discovered evidence that Respondent DHS engaged in systemic fabrication and alteration of documentary records—first alleged in the VEOA petition (altered job applications), and now proven forensically in collateral proceedings involving fabrication of Equal Employment Opportunity (EEO) harassment investigation records. This pattern of deliberate document manipulation validates Petitioner’s VEOA allegations and constitutes extraordinary circumstances warranting reconsideration of equitable tolling under S. Ct. R. 44.2.

#### STATEMENT OF THE CASE

On April 20, 2026, this Court denied Petitioner’s Petition for Writ of Certiorari from the Federal Circuit’s decision in *Jackson v. Department of Homeland Security*, No. 25-1614 (CAFC Nov. 13, 2025), which affirmed the Merit Systems Protection Board’s denial of equitable tolling for Petitioner’s VEOA claim. The Federal Circuit held that Petitioner failed to establish diligent pursuit of his claim despite DHS’s failure to respond to FOIA requests seeking veteran hiring records.

The VEOA petition alleged that DHS surreptitiously removed Petitioner’s Form SF-15 and VA Disability documentation from job applications, thereby altering the application record to prevent veterans’ preference consideration. The Federal Circuit deemed this allegation “conclusory” and credited DHS’s assertion that no evidence supported the claim.

## NEWLY DISCOVERED EVIDENCE OF SYSTEMIC DOCUMENT MANIPULATION

Since this Court's denial, Petitioner has discovered forensic proof that DHS engaged in calculated document fabrication in related federal litigation (*Jackson v. Mullin*, No. 25-CV-09368, N.D. Ill.), confirming the pattern of behavior alleged in the VEOA petition:

1. **Fabricated Metadata:** On April 10, 2026—after years of litigation—DHS produced six PDF documents purporting to be “Management Inquiry Reports” from 2023-2024. Forensic analysis reveals creation dates of April 9, 2026, with blank “PDF Producer” fields indicating deliberate metadata sanitization.

2. **Concealment of Material Evidence:** DHS admits it conducted three internal harassment investigations but bifurcated them from the EEO process, excluded them from the Report of Investigation provided to the EEOC from March 2024-June 2025, and concealed them until after obtaining summary judgment on June 27, 2025.

3. **Fraudulent Procurement of Judgment:** The EEOC Administrative Judge granted summary judgment based on an incomplete record that excluded these investigations—which contained witness corroboration of the racist, hostile work environment Petitioner alleged. DHS then fabricated April 9, 2026, documents to cover this concealment when confronted in federal court.

## ARGUMENT

### I. **The “New Evidence” Connects VEOA and EEO Allegations Through a Pattern of Document Fabrication**

Under Rule 44.2, rehearing is appropriate when intervening circumstances and other significant reasons for review that were not included in the original petition. Here, the EEO fraud evidence corroborates the exact conduct Petitioner alleged in the VEOA petition: DHS alters and fabricates documentary records to defeat veterans’ employment claims.

The Nexus Between the Cases:

- VEOA Allegation: DHS “surreptitiously removed” veteran preference documents (Form SF-15s, VA Disability letters) from Petitioner’s job applications to prevent VEOA consideration.

- EEO Proof: DHS fabricated documents with April 9, 2026, dates to conceal the fact that it has destroyed the original investigations that were completed in 2023-2024.

The Pattern Evidence:

The agency that fabricates harassment investigation records in April 2026 to defeat an EEO claim is the same agency that allegedly altered job applications in 2021-2023 to defeat a preference eligible veterans’ VEOA claim. The Federal Circuit credited DHS’s denial of the VEOA alteration claim; the EEO fraud proves DHS does engage in the precise conduct Petitioner alleged—document manipulation to perpetuate employment violations.

## II. Fraud on the Tribunal Validates the Extraordinary Circumstances Supporting Equitable Tolling

This Court's denial rested on the Federal Circuit's finding that Petitioner failed to demonstrate the "extraordinary circumstances" required under *Pace v. DiGuglielmo*, 544 U. S. 408 (2005), to support equitable tolling of the VEOA deadline.

The newly discovered fraud constitutes precisely those extraordinary circumstances—and retroactively validates the "concealment" theory the Federal Circuit rejected:

1. The VEOA FOIA Obstruction: DHS failed to respond to FOIA requests for veteran hiring records, preventing Petitioner from proving DHS violated his VEOA rights.

2. The EEO Concealment: DHS withheld harassment investigations from the EEOC for two years, creating an incomplete record to defeat summary judgment.

3. The Fabrication: When caught, DHS fabricated April 9, 2026, documents to cover its destruction of the EEO harassment investigations.

Judicial Logic: An agency willing to fabricate evidence in one forum (United States District Court) to defeat a veteran's claim is an agency willing to alter records in another forum (Merit Systems Protection Board) to defeat the same veteran. The Federal Circuit erred by crediting DHS's "good faith" and rejecting Petitioner's diligence. The agency's subsequent fabrication proves the FOIA non-compliance was deliberate obstruction, not negligence, constituting the extraordinary circumstances *Pace* contemplates.

### III. The Fraud Evidence Undermines the Administrative Record's Integrity

Under 5 U.S.C. § 7703(c), Federal Circuit review requires the court to set aside Merit Systems Protection Board findings that are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” The Federal Circuit affirmed the Merit Systems Protection Board finding that Petitioner’s “conclusory” allegations of document alteration lacked support.

The EEO fraud evidence conclusively establishes that DHS engages in precisely the conduct Petitioner alleged. *Chambers v. NASCO, Inc.*, 501 U. S. 32 (1991) (a judgment procured by fraud is void). While *Chambers* concerned fraud on the court, the principle applies with equal force: when an agency is proven to fabricate evidence in collateral proceedings, its representations in the VEOA proceedings—denying document alteration—are entitled to no deference.

The Federal Circuit committed reversible error by:

- Crediting DHS’s blanket denials of document alteration;
- Rejecting Petitioner’s “lack of diligence” when DHS’s subsequent fraud proves the agency actively obstructed discovery in both cases;
- Failing to recognize that an agency that fabricates April 2026 EEO documents is an unreliable witness regarding 2021-2023 VEOA records.

### IV. Prejudice and Irreparable Harm

Without rehearing, Petitioner is irreparably harmed by a final judgment crediting an agency now proven to fabricate evidence. The VEOA protects veterans from precisely this type of bureaucratic manipulation—altering records to deny preference

eligibility. The Federal Circuit’s decision upholding the agency’s equity defense in the face of concurrent fraud on a separate tribunal renders the VEOA’s protections illusory.

#### **V. Due Diligence**

This evidence was unavailable at the time of certiorari briefing. The EEO metadata showing April 9, 2026, fabrication dates, and the belated admission that harassment investigations were concealed from March 2024-April 2026, emerged only after the filing of a motion to sanction due to spoliation in the Northern District of Illinois during April 2026—shortly before this Court’s denial.

### **CONCLUSION**

The newly discovered evidence that DHS fabricated documents in April 2026 to conceal 2023-2024 harassment investigations corroborates the VEOA petition’s core allegation: DHS alters documentary records to defeat veterans’ employment claims. This pattern validates the equitable tolling claim the Federal Circuit rejected and demonstrates the “extraordinary circumstances” of agency obstruction that this Court’s review requires.

Accordingly, Petitioner respectfully requests this Court grant rehearing and vacate the order denying certiorari.



Richard Cornelius Jackson  
1023 25th Ave  
Bellwood, IL 60104  
(312) 285-6390  
Rcjackson83@outlook.com

May 15, 2026

*Pro Se Petitioner*

**CERTIFICATION OF  
UNREPRESENTED PARTY**

Pursuant to S. Ct. R. 44.2, Petitioner Richard Cornelius Jackson certifies as that the petition for rehearing is restricted to the grounds set forth in S. Ct. R. 44.2. I further certify that the petition for rehearing is presented in good faith and not for delay.



Richard Cornelius Jackson  
1023 25th Ave  
Bellwood, IL 60104  
(312) 285-6390  
Rcjackson83@outlook.com

May 15, 2026

*Pro Se Petitioner*