

● 25-6459 ●

NO.

IN THE
SUPREME COURT OF THE UNITED STATES

OSCAR DILLON III
PETITIONER,

V.

UNITED STATES OF AMERICA
RESPONDENT.

On Writ of Certiorari
To The United States Court of Appeals
For The Eighth Circuit

PETITION FOR WRIT OF CERTIORARI

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FILED

NOV 21 2025

THE CLERK
U.S. COURT, U.S.

QUESTION PRESENTED

In *Fischer*, 144 S. Ct. at 2185, this Supreme Court focused on what conduct was prohibited by the "otherwise" clause in 18 U.S.C. § 1512(c)(2) and emphasized that its broad language is cabined by the narrow terms that precede it in § 1512(c)(1). Here, the question presented is whether the lower courts construed the two subsections independently, applying the statute exactly backwards — in Mr. Dillon's case?

RULE 14(B) STATEMENT

The following proceedings are directly related to this case within the meaning of Rule 14(b)(iii):

United States v. Oscar Dillon, III, Case No. 4:15-cr-00404-HEA, which is in the Eastern District of Missouri ("E.D.Mo.") (Final order following jury verdict entered April 8, 2021) (Doc.# 3232); order denying Motion for New Trial, on May 29, 2025 (Doc.# 4283).

United States v. Oscar Dillon, III, United States Court of Appeals ("USCA") for the Eighth Circuit, Appeal No. 25-2128 (Judgment entered August 11, 2025).

United States v. Oscar Dillon, III, USCA (Eighth Circuit), Appeal No. 25-2128 (Judgment entered on Petition for Rehearing En Banc and by the Panel, September 16, 2025); MANDATE issued September 29, 2025.

PARTIES TO THE PROCEEDING

Pursuant to United States Court Rule 14(1)(b), your petitioner states that the parties to this petition are:

Petitioner: Oscar Dillon III

Respondent: United States of America

The opinion of the United States Court of Appeals for the Eighth Circuit, (Appeal No. 25-2128), that is the subject of this petition for writ of certiorari, includes that: as an interested party (Michael Grady), on July 23, 2025, filed his MOTION to join and adopt Oscar Dillon, III's Brief, [5532547-2], and [5540831], of Appeal No. 25-2128. Currently, Oscar Dillon, III, is not aware if the interested party (Michael Grady), has filed any separate petition for writ of certiorari with the United States Supreme Court, seeking review or that is otherwise the subject of the referenced Appeal No. 25-2128.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Oscar Dillon, III, respectfully petitions for a writ of certiorari to review the judgment of the Eighth Circuit of the United States Court of Appeals.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eighth Circuit (Appeal No. 25-2128) is reported as: United States v. Dillon, 2025 U.S. App. LEXIS 24020; LX 442174, Appeal No. 25-2128 (Decided September 16, 2025); Appeal from U.S. District Court for the Eastern District of Missouri-St. Louis. (4:15-cr-00404-HEA-30). United States v. Dillon, 2025 U.S. Dist. LEXIS 101970, 2025 WL 1533184 (May 29, 2025); Petition for Rehearing and Rehearing En Banc United States Court of Appeals for the Eighth Circuit (Denied September 16, 2025).

JURISDICTION

The United States Court of Appeals for the Eighth Circuit entered its judgment August 11, 2025, United States v. Dillon, 2025 U.S. App. LEXIS 24020; LX 442174 (8th Cir. Aug. 11, 2025); followed by the denials of Rehearing and Rehearing En Banc, September 16, 2025, and Issuance of Mandate September 29, 2025. This court has jurisdiction under 28 U.S.C. Section 1254(1).

RELEVANT CONSTITUTIONAL PROVISIONS

The Fifth Amendment of the United States Constitution provides in pertinent part: "No person shall be...deprived of life, liberty, or property, without due process of law;..." U.S. Const. Amend. V.

Title 18 U.S.C. Section 1512(c)(1) and (2) provides in pertinent part:

(c) Whoever corruptly —

- (1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for the use in an official proceeding;
- (2) otherwise obstructs, influences or impedes any official proceeding, or attempts to do so,

shall be fined under this title or imprisoned not more than 20 years, or both.

STATEMENT OF THE CASE

In this writ of certiorari filed incident to a criminal prosecution arising from an indictment charged in the Eastern District of Missouri ("E.D.Mo.") on Case No. 4:15-cr-00404-HEA ("404-HEA"), that eventually included the Petitioner (Oscar Dillon, III), in its Fourth Superseding part, (December 1, 2016).

On March 22, 2021, after being severed from a total of 34 charged the petitioner Oscar Dillon, III, and his co-defendant Michael Grady started trial. And on April 7, 2021, the both was convicted in violations of 21 U.S.C. §§ 846, 841(a)(1); attempted obstruction of justice 18 U.S.C. § 1512(c)(2); and conspiracy to commit money laundering 18 U.S.C. §§ 1956 (a)(1)(B)(i), (h). On June 23, 2022, Mr. Dillon was sentenced to 187 months imprisonment. Among other issues, he challenged on appeal that no physical object was compromised, and that under 18 U.S.C. § 1512(c)(2), the alleged conduct was not befitting to the crime charged. The Eighth Circuit, on December 19, 2013, denied his appeal. *United States v. Grady*, 88 F.4th (8th Cir. 2023).

According to the government, during the December 1, 2016, summary of grand jury testimony, for the return of the Fourth Superseding indictment that eventually included Mr. Dillon and Mr. Grady, it was alleged that the both had access to sealed and privileged information. During the course of trial, the government conceded that alternatively, it was Public Access to Electronic Court Record (PACER) queries and law school articles. However, the government alleged that Mr. Dillon and Mr. Grady used this public information to deduce who was cooperating to help co-defendant Derrick Terry evade the detection of law-enforcement. And that the both also told Derrick Terry, after the January 13, 2016, indictment was unsealed, that he will have a better chance of fighting his case if he (Mr. Terry), stay away from 18 to 24 months and let the court do their thing.

The government's theory was that Mr. Dillon and Mr. Grady were not being accused of being any hands-on dealer nor drug dealer, but that their inculcated relationship with Mr. Terry started after his motion to terminate supervised release was denied by the court, which was drafted by Mr. Grady. Albeit the government concedes that Mr. Grady was hired by Mr. Terry, as a Paralegal to help with his endeavor to terminate supervised release, and that Mr. Dillon worked for Mr. Grady as an Investigator and Paralegal, according to the government, after that motion was denied, the dialogue of Mr. Terry's, Mr. Dillon's, and Mr. Grady's conversation would turn in interest of who was cooperating, but that although PACER does not reveal cooperators, Mr. Dillon and Mr. Grady were corrupt as Investigators and Paralegals, because they deduced who was cooperating to help Mr. Terry evade the detection of law-enforcement. It was also the government's theory that payments made by Mr. Terry was used via drug proceeds to hire an attorney. And that Mr. Grady was the liason between receiving the money from Derrick Terry's lieutenant Stanford Williams and Terry's paramour (Chardea Davis), to give to this attorney, that ultimately entered his appearance on Mr. Terry's behalf after his July 27, 2016, capture.

Over the course of these alleged events that took place, that the government argues started in the year of 2014, subsequent to the denial of Mr. Terry's supervised release motion, helped advance Derrick Terry's Drug Trafficking Organization, up and until his July 27, 2016 capture. After Derrick Terry's capture, according to the government he began cooperating in November of 2016, but admitted that Mr. Dillon nor

Mr. Grady knew about any details of Mr. Terry's drug trafficking activities or his violent acts committed.

REASONS FOR GRANTING THE PETITION

Subsequent to the Eighth Circuit's December 19, 2023, decision on Mr. Dillon's appeal, reported as *United States v. Grady*, 88 F.4th 1246 (8th Cir. 2023), this United States Supreme Court on June 28, 2024, decided *Fischer v. United States*, 144 S. Ct. 2176, 219 L. Ed. 911 (June 28, 2024).

Conflicting, the Eighth Circuit's findings in *Grady*, rely on their binding precedent according to *United States v. Petruk*, 781 F.3d 447 (8th Cir. 2015), that operates as a catch-all to cover otherwise obstructive behavior that might not constitute a more specific offense like document-ation destruction, which is listed differentiating §1512(c)(2), and (c)(1). And because the Supreme Court subsequently held that "the scope of Section 1512(c)(2) is limited by subsection (c)(1) and therefore requires the defendant to have taken some action with respect to a document, record, or other object" that would be used in an official proceeding, *Fischer* Id. at 219 L. Ed. 2d 918, Mr. Dillon filed his motion for new trial with the district court.

After Mr. Dillon filed with the district court, his motion for reconsideration, the court issued its order, vacating the denial of his motion for new trial, and granted reconsideration in light of *Fischer v. United States*, 603 U.S. 480 (2024). See Petitioner's "A1" Appendix Attachment. Mr. Dillon argues that his alleged conduct does not fall within the scope of section 1512(c)(2).

On May 29, 2025, the district court issued its opinion to deny the the Petitioner's motion for new trial. The district court reasoned that §1512(c)(2) covers obstruction that implicates actual or potential evidence. See Appendix Attachment "B2". And the district court further reasoned that, Defendant's advice to Derrick Terry to leave town so that Terry would be better off fighting the case by himself...would reduce the number of ... potential cooperating witnesses...impairing the availability of witness testimony against...Terry. See Appendix Attachment "B3". On August 11, 2025, the Eighth Circuit summarily affirmed the district court's opinion without doing any de novo review. See Appendix Attachment "C1".

Seemingly, the district court's opinion in light of Fischer, and the Eighth Circuit's summarily affirmed decision, reasons in direct conflict with not only this Supreme Court's holding, but also other Circuits' post Fischer interpretations. Examples below follows that:

(A) In a case that presented facts nearly identical to petitioner (Oscar Dillon's) §1512(c)(2) argument, the Fifth Circuit—in *United States v. DeBruhl-Daniels*, 118 F.4th 735, 2024 U.S. App. LEXIS 25774, 2024 WL 4471417 (5th Cir. Tex. October 11, 2024) held that "conjecture that a tipped-off target could destroy evidence is not sufficient to show evidence impairment." *De Bruhl*, Id. at 2024 U.S. App. Lexis *1.

The facts in *De Bruhl* follows that: *De Bruhl* served as a special agent with the Naval Criminal Investigative Service (NCIS). While stationed at the United States Consulate in Dubai, she met a Syrian national named Nadal Diya. *De Bruhl*'s relationship with Diya began professionally, then became personal, and ultimately developed into a romantic one. During their relationship, *De Bruhl* divulged confidential information to Diya, despite repeated warnings from colleagues about her entanglement with Diya and the risks of such disclosures. *De Bruhl*, Id. at U.S. App. Lexis at *3.

As a result, counts 15, 36, and 37 alleged that De Bruhl corruptly attempted to obstruct, influence, and impede an official proceeding, in violation of §1512(c)(2). Specifically, Count 15 charged De Bruhl with obstruction for informing Diya that he was the target of federal criminal investigations, Count 36 charged De Bruhl with obstruction for telling Diya that he would be arrested if he returned to the United States, and Count 37 charged De Bruhl with obstruction for informing Diya that Arafat was also an investigation target. De Bruhl, Id. at U.S. App. Lexis at *8-9. Under these facts, the Fifth Circuit held that following Fischer, De Bruhl's convictions under these three counts must be vacated, because the Government provide[d] scant support for the notion...that a tipped-off target could destroy evidence.

(B) In similar alleged circumstances where, according to the government, the petitioner Oscar Dillon advised Derrick Terry that it would be advantageous for him to leave for 18 to 24 months; facts decided in *United States v. Baez*, Criminal No. 21-0507 (PLF), 2025 U.S. Dist. LEXIS 10818, 2025 WL 225039 (District of D.C. January 17, 2025), includes that, the offense by causing the Electoral College ballots to be temporarily unavailable for use by the Congressional representatives...Baez attempted to violate Section 1512(c), by attempting to impair the availability and integrity of the Electoral College ballots Baez, Id. U.S. Dist. Lexis at *5.

The court made a finding that based on the evidentiary record and drawing all reasonable inferences in the government's favor...of the government's argument with respect to specific intent...that Baez intended

to impair the integrity or availability of the Electoral College ballots ...to interfere with the certification and...an understanding of the electoral certification process...that "the argument really is an attempt to recharacterize Ms. Baez's intent to delay or interfere with the electoral certification as a specific intent to violate Section 1512(c)"...which "falls short of the showing any specific intent by [a defendant] to impair the availability or integrity of the electoral ballots themselves." Baez, U.S. Dist. Lexis at *22-24.

And because the government...has not offered evidence to find... Ms. Baez violated Section 1512(c)...that she had the specific intent to facilitate the commission of a Section 1512(c) offense, the government has failed to prove that Ms. Baez is guilty of aiding and abetting the offense. See Baez, Id. at *32-33.

(C) Contraven[ing] to the district court's opinion with respect to petitioner Oscar Dillon, and its interpretation that §1512(c)(2) covers obstruction that implicates actual or potential evidence, Appendix Attachment "B2", in *Sookul v. Frash Clean Threads Inc.*, 754 F. Supp. 3d 410-412 (S.D.N.Y. October 16, 2024), relying on two interpretive cannons that guided the Fischer Court's conclusion...observed that the "otherwise" clause encompassed "all obstructive acts". And noted that the same principles compel a reading...as referring to a physical establishment. And, that the court does not read...as opening the door...to permit any non-physical operation. Expounding, citing Fischer, 144 S. Ct. at 2190 (rejecting "literally permissible" interpretation where it "defies the most plausible understanding" of the statute). It is to be interpreted

within the context...suggesting that...an actual physical place is required. Sookul, Id. at 412.

Summary of Reasons

The petitioner Oscar Dillon, III, was convicted under section 1512 (c)(2) for allegedly advising Derrick Terry to stay away for 18 to 24 months [;] after learning that Terry was a subject of an indictment, that was unsealed January 13, 2016. Following Terry's July 27, 2016 capture, and undisclosed confinement, the government subsequently pursued the death penalty for his violent conduct committed, prior to him ever knowing Mr.—Dillon. While Terry was secluded at an undisclosed location, four months after his July 27, 2016 capture, in November of 2016, Terry eventually began cooperating with the government. Mr. Dillon and Mr. Grady proceeded to trial on March 22, 2021, and was convicted for the subject matter (section 1512(c)(2)) on April 7, 2021.

Mr. Dillon appealed the subject matter, and the Eighth Circuit on December 19, 2023, affirmed the district court's findings. United States v. Grady, 88 F.4th 1246 (8th Cir. 2023). On June 28, 2024, the U.S. Supreme Court announced its new rule in Fischer v. United States, 144 S. Ct. 2176, 219 L. Ed. 2d 911 (2024). The Supreme Court held, "the scope of Section 1512(c)(2) is limited by subsection (c)(1) and therefore requires the defendant to take some action with respect to a document, record, or other object" that would be used in an official proceeding Fischer Id. at 918. Mr. Dillon's alleged conduct, in no way involved any document, record or other object. Nor were any named witnesses or intangible information

evidenced thereof. Therefore Mr. Dillon relies upon the Fifth Circuit's analogy, where sister circuits cannot bootstrap conduct which otherwise fall out-of-bounds of the Supreme Court's admonition not to apply §1512 (c)(2) as a general anti-obstruction statute. De Bruhl, Id at *26.

For example, with respect to Mr. Dillon, the Eighth Circuit, preceding Fischer, in *United States v. Grady*, 88 F.4th 1256 (8th Cir. 2023), compared Mr. Dillon's alleged conduct of advising Terry to stay away for 18 to 24 months, in that of *United States v. Mink*, 9 F.4th 590, 610 (8th Cir. 2021), where defendant Mink "instructed his father to destroy evidence....and sign a false affidavit". The district court in Mr. Dillon's captioned issue hereupon, retrogressively adopted these findings post Fischer. See Appendix Attachment "B2".

However, the Fifth Circuit, post Fischer, in De Bruhl juxtaposed that in comparison to *Mintmire*, 507 F.3d 1273 (11th Cir. 2007), *Mintmire* attempted to orchestrate a witness's grand jury testimony by creating false documentation and sending notes to an attorney so he could coach the witness for an upcoming grand jury proceeding, whereas De Bruhl's conduct was informing Diya that he was a target of an investigation; telling Diya that he would be arrested if he returned to the United States; and also informing Diya that Arafat was an investigation target. Again, the Fifth Circuit noted that the government cannot bootstrap conduct. De Bruhl, Id. at *26.

Mr. Dillon avers that De Bruhl's alleged conduct is identical in nature and circumstances, and that the Fifth Circuit's interpretation of Fischer was accurately applied. And without any witnesses or intangible

information evidenced with respect to Mr. Dillon, the district court therefore concedes with its misapplication that §1512(c)(2) covers obstruction that implicates actual or potential evidence, that its conclusory, and absent evidentiary proof. See Appendix Attachment "B2". And as a result, it aligns with the Fifth Circuit's findings that conjecture...is not sufficient to show evidence impairment. Therefore, a conviction based on speculation and surmise alone cannot stand. De Bruhl, Id. at *25 and *26, respectively.

II. Summary of Reasons

In clarifying conduct that may be criminalized by section 1512(c)(2), the Supreme Court pointed to other subsections in 18 U.S.C. § 1512 that criminalized other forms of conduct to highlight why section 1512(c)(2) was specified to (c)(1). In one scenario, the Supreme Court highlighted "Section 1512(a)(2)(B)(iv), for example, authorizes up to 30 years' imprisonment for someone who uses or attempts to use physical force against another person with the intent of causing him to be absent from an official proceeding." Fischer, Id. at 924. "Section 1512(d)(1), by contrast, authorizes only three years' imprisonment for someone who harasses another person and thereby dissuades him from attending an official proceeding." Id.

Mr. Dillon's alleged conduct would fall closest to section (d)(1) if the government alleged that Mr. Dillon attempted to "dissuade" Terry from attending an official proceeding. However, a closer look at section (d)(1)

reveals yet another insufficiency to sustain a conviction in this case. Mr. Dillon did not "harass" Terry to "dissuade[]" him from attending an official proceeding." If Mr. Dillon's conduct does not even qualify as a crime with a more meager penalty of three years imprisonment, it obviously cannot qualify for the harsher penalty of 20 years imprisonment.

The Supreme Court further clarified that:

Nothing in the text or statutory history suggest that subsection (c)(2) is designed to impose up to 20 years imprisonment on essentially all defendants who commit obstruction of justice in any way and who might be subject to lesser penalties under more specific obstruction statutes. See, e.g., §§ 1503(b)(3), 1505. If Congress had wanted to authorize such penalties for any way, it would have said so. Instead, Section 1512 mentions "record," "document," or other "object" 26 times. See 18 U.S.C. §§ 1512(a)(1)(B), (a)(2)(B)(i),(ii),(iii), 1512(b)(2)(A),(B), (C), 1512(c)(1), 1512(f). Fischer, Id. at 926.

For these reasons, given that Mr. Dillon's alleged conduct did not rise to the level of obstruction of justice as outlined by this Supreme Court with respect to section 1512(c)(2), it was insufficient to sustain his conviction. Therefore, in light of Fischer, his conviction under section 1512(c)(2) must be vacated.

CONCLUSION

Intervention of this Court is desperately needed to continue to uphold the principles set forth to prove a violation of 18 U.S.C. § 1512(c)(2). Where the Government must establish that the defendant impaired the availability or or integrity for use in an official proceeding of records, documents, objects, or other things used in the proceeding, or attempted to do so. As a result, Mr. Dillon respectfully moves the Court to remand this case in light of the recent decision in *Fischer v. United States*, 144 S. Ct. 2176, 219 L. Ed. 2d 911 (2024).

Respectfully Submitted,



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Dated: November 17, 2025