

25-7187

IN THE SUPREME COURT OF THE UNITED STATES

ORIGINAL

No. 25A876

JERNICE HAMILTON

AKA

GARNARIS HAMILTON

Appellant /Plaintiff

V

UNITED STATES

Appellee/ DEFENDANTS

**FILED**  
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SUPREME COURT, U.S.

Petition for a Writ of Certiorari to the United States

Court of Appeals for the Federal Circuit

PETITION FOR WRIT OF CERTIORARI

Jernice Hamilton

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Appellant

Self-Represented

## QUESTIONS PRESENTED

I Whether a military separation is void ab initio when the Department of the Army fails to provide the mandatory 'Full and Fair Hearing "required by 10 U.S.C. 1214, based upon an official government record (VA BIRLS) erroneously reporting the service Member as 'Deceased?

II. Whether the government violates the Due Process Clause and 10 U.S.C. 1214 when it administratively declares a living service member "deceased," subsequently denying benefits based on "no-shows" for evaluations the Petitioner was legally barred from attending, and whether such a "state-created barrier" requires a mandatory finding of Constructive Active- Duty Service for the period of the error.

III. Whether a reviewing court commits reversible error by failing to apply the 5 U.S.C. 706 "Hard Look" standard—an omission conceded by the Government - thereby insulating a 38-year-old structural error (including five misdiagnoses and a false death report) from the full retroactive relief now mandated by *Soto v. United States* (2025).

IV Whether the Adamo Wrecking Doctrine and 5 U.S.C.706 require a reviewing Court to set aside a military discharge as Void Ab Initio when the Government's own record admits the Petitioner met medical referral standards " prior to discharge "But was denied the mandatory " full and fair hearing " required by 10U.S.C.1214

## PARTIES TO THE PROCEEDINGS

The parties to these proceedings are Petitioner Jernice Hamilton (Mr. Hamilton) and Respondent., the United States of America (BCMR- board)

## CORPORATE DISCLOSURE STATEMENT

No Corporations or Corporate entities are involved

In these proceedings.

## RELATED PROCEEDINGS

Other than the direct appeal that forms the basis for this Petition, there is no other related case within the meaning of Rule 14.1(b)(3) Hamilton v United States No.2024 - 2200 U. S. Court of Appeals for the Federal Circuit Petition for Panel rehearing denied, Petition for Rehearing En Banc denied November 6, 2025 (App. A)Hamilton v US No.2024-2200 U.S. Court of Appeals for the FederalCircuit Judgment August 14, 2025 (App. A)Hamilton v United States No.23-2153C U.S. Court of Claims for the Federal Circuit Reconsideration JULY 18, 2024, Denied (App. B) Hamilton v United States No.23-2153C U.S. Court of Claims for the Federal Circuit Opinion & Order May 21, 2024 (Claims Court App. B)

Hamilton v United States No.23-2153C U.S. Court of Claims for the Federal Circuit Order Granting Amended Supplement March 18,2024(App. B) United States District Court, District of South Carolina2:21-cv-00195-BHH Judgment: September 26, 2022 (App. C) Army Board of Corrections of Military Records 2021 Final Decision February 8, 2022 (App. D)

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PETITION FOR WRIT OF CERTIORARI

Petitioner Jernice Hamilton respectfully prays that a Writ of Certiorari issue to review the judgment of the below of the United States Court of Appeals for the Federal Circuit 24-2200 (App. A) decision in Hamilton v United States No. 23-2153 Court of Appeals published Opinion affirming the Court of Federal Claims (App B) reviewing Administrative Procedure Act claims of unlawful removal

departing from normal constitutional rule of illegal separation under the APA 706 by framing 2501 subject matter jurisdiction not adhering to' precedent' 10U.S.C. 1214 the 'Condition precedent "No member "may be separated without a hearing. This condition did not meet with meaning that the statute of limitations does not run against a legally effective agency action 1214 a jurisdictional prerequisite, a separation while such hearing is void ab inito (void from the beginning). A void act is legal nullity; it has no date, no weight and cannot trigger a jurisdictional clock. The Clock could not have started because of the Government's missing 10 U.S.C. 508 Reenlistment; qualifying (DD Form 4 (App. D) the U.S. Army enlistment contract the government has now admitted that it does not exist, the lack of Contractual jurisdiction 10 U.S.C. 508 reenlistment (DD Form 4) meaning there was no legal enlistment, 10 U.S.C. 1214 hearing logically there was no power to terminate the (phantom) service. Additionally, " Mr. Hamilton's motion for Rehearing as reported (App. A) Hamilton v U. S. 24-2200 November 6, 2025, was denied without hearing. of the United States Court of Claims for the Federal Circuit on 706 Orders granting the Amended Supplement review under the Administrative Procedure Act, (App.B-pg.10) Despite its own orders not being reviewed, section 706 is a jurisdictional abdication the Court gave the Government an option [Accordingly the Government does not need to respond to this filing of section 706 Amended Supplement)]. The Government's (App.Dpg.42) Informal Brief at 5 " [M] r. Hamilton is correct that the trial Court did not address the actual merits of Mr. Hamilton's Claim. "Claims Court used the Tucker's Act as a shield to prevent the court from ever examining the "phantom" nature of Mr. Hamilton's services records (App. E) in absences of a DD Form 4 (U.S. Army enlistment) the anchor of its jurisdiction to other than

the legal fiction doctrine Constructive Active-Duty Service 37 U.S.C. 204 Military Pay Act. Denying Mr. Hamilton's Petition for lack of subject matter Jurisdiction May 21, 2024, Appendix (B) the Claims Court Order denying Reconsideration Appendix (B pg. 9)

#### OPINION BELOW

The United States Court of Appeals Order denying Panel rehearing and rehearing en banc appears at Appendix A the Petition has been published at No.24-2200. The Opinions and Order of the United States Court of Federal Claim is unpublished; the Opinions and Order, the reconsideration order appears in Appendix B. The Opinion of the United States District Court D.S.C. is Published at 2 ;21-CV-00195-BHH, appears in Appendix (C).

#### JURISDICTION

The United States Court of Appeals for the Federal Circuit entered its judgment denying Rehearing en banc November 6, 2025, and its Judgment August 14, 2025, This Petition for Writ of Certiorari is filed within the time prescribed by Rule 13 of this Court. The jurisdiction of this Court is involved under 28 U.S.C.1254 (1) Which permits review of cases in the U.S. Courts of Appeals for the Federal Circuit by Writ of Certiorari, filing a Motion for Extension of time January 13, 2026, again February 2 ,2026 was granted, granted February 4 upon the Petition due April 5, 2025. Court's jurisdiction is further supported by the presence of a Federal Question involving the misapplication of the Pullam-Standard and the Adamo Wrecking Doctrine to a mandatory statutory shield

under 10USC 1168 and 1214, as well as the Due process clauses of the Fifth Amendment. “

### STATUTORY PROVISION INVOLVED

Army Regulation 600-8-1 Casualty program Army Regulation 600-8-4 Line of Duty 5 U.S.C.706 APA 10 U.S.C.501 Enlistment Oath 10 U.S.C. 651 Required service 10 U.S.C. 1168 DD Form 214 10 U.S.C 1204 Retirement or Separation 10 U.S.C.1214 Congressional Command 10 U.S.C. 1552 Remove injustice 28 U.S.C 1254(1) Supreme Court's Jurisdiction 28 U.S.C.1295 Appeals Court jurisdiction 28 U.S.C.1491 Tucker's Act 28 U.S.C. 2401Equitable Tolling 28 U.S.C.2501 Statute of Limitations. Constitution Amendment V Due Process Clause the Pullman-Standard, Merits, Adamo Wrecking Doctrine Label is not Law Fed. R. Civ. P. 12(b)(1) & (6) Misapplication of Rule Fed. R. Civ. P. 52 Findings and conclusions by the Court. A. Statutory Framework

### STATEMENT OF THE CASE

This Case revolves around the jurisdictional vacuum of a missing 'phantom 'records U.S. Army 10 U.S.C. 501 DD Form 4, flawed medical records Mr. Hamilton vanished (App F) from reporting for 10 U.S.C. 1214 medical evaluation. The phantom reenlistment DD Form 4 United States Army and his death This relationship between Mr. Hamilton and the Army began 38 years ago on October 28, 1977, How, this relationship is currently anchored in a jurisdictional

vacuum. the 2021 (BCMR) decision (App. D.pg.52) medical retention standard of chapter 3 AR40-501 standard Mr. Hamilton met the requirements AR 635-40 for a referral to DoDI 1332 .18 disability evaluation system (DES): two surgeries, five (5) military chronological misdiagnoses. The government has admitted that it cannot produce the U.S. Army's DD Form 4(Enlistment Contract) for the period of service in question...1. Under the principle of military jurisprudence, DD Form 4 is essential instrument that establishes jurisdiction over Mr. Hamilton. Such foundational document, the government cannot establish the legal parameters of Mr. Hamilton's service, nor can it prove the date upon which any subsequent 2501" accrual " of a claim could begin. The Mandatory Statutory violation of 210 U.S.C 1214, The Judgment Below (App. A) rests on the Claims Court erroneous conclusion that Mr. Hamilton a Reservist signed (App. E. pg. 72) a change of status form on October 28, 1977, for an enlistment in the U.S. Army without "any "documentation of a Full and Fair hearing 10 U.S.C.1214 or DD form 398 transfer. Appeals Court erroneously misapplication of law section 1214 is a congressional command, not a discretionary decision. A Court "must "examine the whole record of administrative records of Mr. Hamilton (App E) U.S. Army Reserve AR 135-178 Administrative discharged October 27, 1977, void ab initio separation 28th October Mr. Hamilton signed a change of status form as the Claims Court stated (App. B), not a 10 U.S.C. 508 DD form 4 Enlistment Contract there was no ' separation ' that occurred: an unlawful separation could not trigger the six-year statute limitations under 28 U.S.C.2501. Claims Court's (App. B) failure to address the jurisdictional 1214 threshold to establish VA'S records (App. E) which confirms as an undisputed historical section06 fact that Mr. Hamilton AR 600-8-1 is officially listed as{dead}

whereabouts unknown (App F) Therefore he could not have been given the Full and Fair hearing 10 U.S.C. 1214 the congressional command, medical condition issuing a Purple Heart, 10 U.S.C.1552 The secretary of the military department" shall" correct any military record when it is necessary to: remove an injustice. Mr. Hamilton original filing November 2018 the Secretary of the Military should have corrected the AR 600-8-4 Mr. Hamilton's official records LOD investigation shown He was alive. The Secretary had an obligation to correct this injustice Mr. Hamiltons is filing a claim as a dead man. The Army possessed no- subject-matter Jurisdiction to issue ' Orders ' (App F) AR 600-8-1 'whereabouts unknown, death of claimants, not military related "to bypass the mandatory 10 U.S.C. 1214 hearing shield by treating an official death, violating its own regulation creating a Jurisdiction void as a ' discharge, ' the Claims Court ignored the ' void ab initio ' doctrine of Dilley and Christian. Furthermore, the Court's failure to recognize that under *Barnick v. United States*, the failure to satisfy the statute mandates of 10 U.S.C. 1168 -coupled with the Board's (App. D) admission of a 706 violation Inf.Br.at 5 violations of the Pullman-Standard concluded 28 U.S.C. 2501 In the late 70s while suffering from an injury later correctly diagnosed (App. E pg. 89) as a herniated disc 2016 Mr. Hamilton was subject to a "de facto " separation.

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<sup>1</sup> Pursuant to the Supreme Court's holding in *Loper Bright Enterprises v. Raimondo* (2024) This Court must exercise independent judgment to determine whether the Act or acted within its statutory authority. Under 10 USC 1214 The Army Board's reliance on a "presumption of regularity to validate a 1970s

discharge-despite a total lack of records providing the mandatory: full and fair hearing " occurred- is a request for the type of agency deference that is no longer permitted.

<sup>2</sup> Barnick v United States 591F3d 1372, at 1377 He seeks additional pay for subsequent periods, arguing that the Air Force procedure was flawed; that he was not given a "full and fair" hearing as required by 10USC 1214; and that he was accordingly illegally separated from the service. Even Barnick did not receive a proper evaluation until after 1998. We rejected Barnick's claim that the statute mandates incapacitated pay. 10USC 1214 provides, "No member of the Armed Force may be retired or separated from physical disability without a full and fair hearing if he demands it.

This occurred in direct violation 10 U.S.C 1214, which commands that: " No member.... may be separated.....without a full and fair hearing. "No such hearing was provided. Under the " function interpretation " rule of *Adamo Wrecking Co v United States* 434 U.S. 275 (1978) an agency action that fails to meet its mandatory statutory definition-in this case a " separation "performed without the required hearing- is legally nullified. Because the 1980 event was void ab initio, Mr. Hamilton entered a state of Constructive Active-Duty service, a status that continues until a legally sufficient discharge is executed. For the subsequent 38 years, Mr. Hamilton remained in a state of legal and medical limbo. True nature of his service-connected disability was suppressed by a series of misdiagnoses (App.E.pg.81-85) by Army medical officials 1977-80, (App. E.pg 86-92) corrected in 2016. Under

this Court's recent holding in *Corner Post Inc. v Board of Governors* 144 S. Ct. 2440 (2024), a claim under the Administrative Procedure Act does not accrue until the Plaintiff has a "complete and present cause of action. "Mr. Hamilton could not have challenged the denial of his 10 USC 1204 disability retirement benefits until correct diagnosis made those benefits " ripe." The Claims Court's reliance on the 1980 date to bar the claim fails to account for the fact that the Army's own record-keeping failures and statutory violation prevented the Claim from ever " accruing" in the traditional sense. Mr. Hamilton on (Appx.Epg58-61), August 5, 1977, He entered the United States Military Entrance Processing Command (USMEPCOM) for testing and physical examination for enlistment in the United States Army Reserve, after passing his testing and physical examination was sent outside for recreational activities while awaiting the other recruits. Mr. Hamilton was hit in his left eye, fell on his back and knocked unconscious. He was revived by the recruiter sent back inside, not reexamined. Mr. Hamilton had emergency (App E.pgs.34, 60)" eye surgery "September 14, 1977, reported back to AFFES was reexamined, October 6, 10 (App. E.pg59-61) October 21,1977 he was relieved for reexamination (App. E pg.64) October 25, 1977, Mr. Hamilton signed an (App. E. pg. 30-35),10 U.S.C. 501 original Enlistment United States Army Reserve (App. E.pg68) extended active duty at the time of signing, was ordered Administrative Discharged 135-178 (App.E.pg 70) October 27 ,1977 he returned for further enlistment and was given a new set of orders that he had enlisted in the U. S. Army (App. E.pg70) As ordered for further enlistment processing, he was sent to basic training in basic training , injuring his hand in November 1977, denied treatment until January 1978 (App.D.pg 74) continued active .1978 while stationed in Germany he received 2 Article 15's 1st

disobeying a lawful order given extra duty second AWOL coming back late from authorized leave. Mr. Hamilton consulted the United States Army Battalion Surgeon, 317th Engr. Bn. December 4, 1978, (App D Pg.80-81) the surgeon recommended, 30 days condition 'under '(AR40- 501) January 4, 1979, He was diagnosed prolong L-5 Strain, limitations, under AR 40 -501 March 26,1979 the third time diagnosed lower back pain x1 week profile April 24,1979, the fourth time his foot and back pain, profile 1week prescription Paroxetine, no lifting over 20 Lbs. 3 days Mr. Hamilton was unconstitutional Court-martial January 6, 1980, May 15, 1980, lower back pain, 3 days profile. Mr. Hamilton was" de facto "Discharged from USDB Kansas City Mo. September 5,1980 Mr. Hamilton filed VA Claim for April 24 ,1979-foot injury August 1981 denied that his period was dishonorable for that period of service. Mr. Hamilton had knee replaced in 2015, 2016 Mr. Hamilton lower back pain, (App D Pg.89-92) had a Magnetic Resonance Imaging (MRI) procedure diagnosed with L-5 herniated disc canal with narrowing. Mr. Hamilton filed SF- 180 for his separation documents from the USAR and medical records in March 2016 He consulted with his private physician Dr. William Baly M.D. explained that he was diagnosed with lower back sprain L-5 several times while serving in the military. Dr Baly sent the referral App.D.pg.88) The Department of Veterans Affairs Administration for examination and testing of Mr. Hamilton's back for possible disability, The Veteran's Administration denied Mr. Hamilton had already requested information from the National Personnel Records Center Archive, (App D pg.56) he was not issued a DD Form 214 Reserve service, because he had less than 90 consecutive days of active-duty training. The enclosed document shows verification of 10 U, S.C.651, Reserve Service the Pre-determination (App.DPG77-79.) request was denied August 1,

2018, Mr. Hamilton filed a Reconsideration that his original enlistment contract was the United States Army Reserve October 25, 1977, and was transferred October 28, 1977, in the United States Army October 30, 2018, the Department of Veterans Affairs Administration decision denying the application United States Army DD Form 214 does show any Command transfer from therefore there is no other 10 U.S.C.651 enlistment he can file a Claim for, the period of enlistment is not eligible for disability benefits. November 2018 Mr. Hamilton submitted DD Form 149 as his transfer from the USAR to the United States Army was improper, The United States Army DD Form 214 does not list his Command transfer from questioning (standard form 88 medical Examination) August 5, 1977. He asked the Board to determine if those actions in the records were errors of military records "to fix "Errors of injustices, they did not. Mr. Hamilton's Claim in (App. C) U.S. District Court 2021 case 2: 21-cv-00195-BHH the Court's ECF No.64 footnote # 5 The undersigned notes that in his Amended Complaint, Plaintiff (Mr. Hamilton) also asserts he was denied due process before a disability board and that he "never received a 'fair hearing' from the board of the Department of Veterans Affairs or ABCMR ECF No.17-1 at 4 Mr. Hamilton's 42 U.S.C.1983 District Court dismissal - without prejudice The BCMR'S final decision February 8, 2022, Title 10 USC 1552 Provides that application for Corrections of military records must be filed within the three years after discovery of the alleged error or injustice.: This provision of law allows the Army Board for Corrections of Military Records (ABCMR) to excuse an applicant's failure to timely file within the three-years statute of limitations if the "ABCMR determines it would be in the interest of justice to "review, Mr. Hamilton's application was accepted, the BCMR decision arbitrarily and capriciously denied

relief Mr. Hamilton's 42 U.S.C.1983 District Court dismissal - without prejudice. Having been previously barred from seeking relief under 42 U.S.C. 1983 there is no other relief, Claims Court (App B) refusal to apply the Congressional command mandate of 5 U.S.C. 706 in the face of the BCMR (App.Dpg42) admittance of the Claims Court not reviewing the merits of Mr. Hamilton's Claims, the Claims Court created a jurisdictional void in the face of BCMR Admitted 2021 violation of 10 U.S.C. 1214 justifying the court's ruling that Mr. Hamilton signed a [change of status form October 28, 1977, App.E.pg72] violation of congressional command. Haines V Kerner 404 U.S.519 (1972) Claims Court treating the command as casual abuse of discretion. This Court can enforce the Congressional mandate: there is no other remedy for relief. If the Army didn't follow the steps required by law (1214 the hearing, before the delivery of DD Form 214) the action was not a final clock-starting event. Mr. Hamilton, dissatisfied with the decision of the BCMR filed his complaint requesting Judicial review. He also amended his complaint to section 706 where a court may set aside a board decision that was " arbitrary or capricious unsupported by substantial evidence, or otherwise not in accordance with law. "i.e.," essentially the standard under which administrative agency decisions are reviewed Fisher v United States 402 F3d 1167,1180 (Fed. Cir 2005); Walls v United States 413 F. 3d 1331 (Fed Cir. 2005) ("[J]udicial review of decisions of military corrections boards is conducted under the APA. (legally valid discharge ") On December 15, 2023, Mr. Hamilton submitted his complaint to the Claims Court pursuant to the Tucker's Act which grants the court jurisdiction over "any claim against the United States founded either upon the constitution or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the

United States, or liquidation or unliquidated damages in cases not sounding in tort. " 28 U.S.C.1491 (a)(1) The Tucker's Act does not create a substantive right of action. *United States v Testan* 424 U. S. 392, 398 (1976) A party seeking to bring a suit in this Court must point to a money-mandating Statute or regulation. *United States v Mitchell* 463 US 206 ,217 (1983) A party may seek certain equitable relief that is " incident of Collateral to " judgment on the money-mandated Claim, including the "restoration to office or position, placement in appropriate duty or retirement status, and Corrections Of applicable records [.] " 28 U.S.C.1491 (a)(2) 37 U.S.C.204 Military Pay Act governing illegal release or illegal removal is a money-mandated statute, Title 10 U.S.C. 1214 ,1204 are both money-mandate However because Mr. Hamilton filed his claim December 15, 2023, Amending his Complaint Section 5 U.S.C.706(App. B pg.10) Administrative Procedure Act, Claims Court without reviewing section 706 concluded that his claim 'de facto '1980 discharge was time barred Pursuant to section 2501 which violated the Pullman- Standard of review

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<sup>3</sup> *Adamo Wrecking Co. United States* 434U.S.275 (1978) This, Court held that a Court "must "check if an action meets the statutory definition before it can have legal effect [ discharged] label is not enough, it must meet the statutory requirements of 10 U.S.C.1214 Mandate Congress commanded also the requirements of statute 10 U.S.C. 1168 (Loper Bright doctrine) emphasizes that agency actions "must "be legally complete and based on actual statutory authority; *Soto v United States* ,144 S. Ct .2190 (Note: part of the Loper Bright era of 2024 decision).

The Claims Court erred in its legal conclusion because this action was never legally finalized, no final agency action occurred to trigger a time-bar under *Soto v United States* 144 S. Ct. 2190(2024) Furthermore, per *Corner Post Inc. v Board of Governors* 144 S. Ct. 2440 (2024) Mr. Hamilton's claim could not accrue until the injury was 'complete and present 'upon the 2016 Mr. Hamilton 2016 diagnosis started the 6-year clock *Soto* (2025) Barring Act Mr. Hamilton was Misdiagnosed five (5) times the military doctors not knowing what was wrong 38 years before corrected, this action brought under Military Pay Act runs from the date of the injury *Corner Post* (2024) the failed command 10 U.S.C.1214. Mr. Hamilton's 38 years "de facto "separation. See, *Corner Post Inc. v Board of Governors of the Federal Reserve System* 603, U.S. 779 (.2024); 144 S. Ct. 2440 (decided July 2024) A claim under the APA (Mr. Hamilton's (App. D pg.80-85)) misdiagnosed for 38 years), the injury he did not have legal rights, until the (corrected diagnosis in 2016) occurred to trigger a time-bar under *Soto v United states* 144 S. Ct. 2190(2024) Furthermore, per *Corner Post Inc. v Board of Governors* 144 S. Ct. 2440 (2024) Mr. Hamilton's claim could not accrue until the injury was 'complete and present 'upon the 2016 (App. D pg.86-92) MRI medical corrections. To apply a statute of limitations to a Void, non-statutory act constitutes a jurisdictional abdication that this Court must correct. Mr. Hamilton' personal jurisdiction 'constructive Active Duty,' the government's statutory failure to produce Mr. Hamilton's DD Form 4 which the government now admits does not exist this statutory failure, the" legal instrument "capable of attaching military authority to Mr. Hamilton.

The Claims Court failure to address section 706, the law says the court "shall hold unlawful and set aside agency actions found to be more than statutory jurisdiction. The "shall" Rule; in legal terms, "shall" means the Court has no choice. It is a mandatory command from Congress. The government's own Informal Br.at 5 (App. D) admission the Trial Court "did not address the merits of section 706", the government is admitting the Court refused to obey a Congressional command. The Appeals Court, when determining whether the Claims Court had jurisdiction to hear Mr. Hamilton's claim. As a threshold matter, the Appeals Court was required to have accepted as true all undisputed facts asserted in Mr. Hamilton's Complaint and have drawn all reasonable interference in his favor. Normally when considering a motion to dismiss-even one based on lack of subject matter jurisdiction a - court must accept all well pleaded facts as true and draw all reasonable interference in Mr. Hamilton's favor. *Scheuer v Rhodes* 416 U.S.232 ,236,94 S. Ct.1683 ,40 L. Ed. 2d 90 (1974) *Englewood Terrace Ltd. P'ship v United States* 61 Fed. Cl. 583 ,584 (2004) Appeals Court argument differs from (App. B) Claims Court's Change of Status Appeals (App. A) opine 4 AR 635-5 under revived AR 635-8 that a Reservist must be on active duty to receive a DD Form 214

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<sup>4</sup> *Barnick* 591F3d at 1379 Plaintiff was on extended active duty and able to continue on active duty when improper action leading to his separation from service occurred; see *Christian v United States* 337 F3d 1338at 1341; *Groves v United States* 47 F. 3d 1140 ,1142 (Fed. Cir 1995) ; *Bray v United States* 207 Ct. Cl 60, 515 F2d 1383 ,1385 (1975); *Clackum v United States* 148 Ct. Cl 404,296 F.2d 226,226 (1960) *Egan v United States*, 141 Ct. Cl 1, 158 F. Supp. 377,379-80 (1958) absent

the improper action or discharge, the service member would have remained in the military on active duty. 10 U.S.C.1214 provides; A member of the reserve component of a uniformed service is entitled to pay, and allowance by law and regulation for a member of a regular component.

The Appeals Court's abuse of discretion ignored the Congressional mandatory Command, therefore, the action was 'legally incomplete' and causes of action did not accrue until 2016 diagnosis provide the cause of the "injury" Necessary for judicial review under Corner Post (2024) The Appeals Court acted as factfinder to 706 Claims Courts not addressing of the constitutional issues in section 706 (Appx. A);"; to make clear the Claims Court does not have jurisdiction to consider claims arising under the Due Process Clause of Fifth Amendment:". Appeals Court' review only 'Rules this 'issue of impression that was handled incorrectly 'Appeals Court cannot make a ruling on issues the Claims Court did not address, (Appx. B -1) the congressional command. Mr. Hamilton's section 706 would have examined the administrative records; there was no 2501 statute of limitation on a 'de facto' separation without a valid enlistment contract for a deceased member. The Government itself admits the Court did not do its review of the merits (App D Informal Br.at 5 of Mr. Hamilton's claim. The Claims Court has jurisdiction under the Tucker's Act 28 U.S.C.1491 to adjudicate a Fifth Amendment claim were the government's deprivation of military "status" and "pay" occurred in a jurisdictional void-lacking a DD Form 4 Contract and violating the mandatory hearing to deny that Mr. Hamilton's unconstitutional Fifth Amendment "No person shall be ... deprived of life, liberty or property, without due process of the law... The Army promulgated a flawed

enforcement order (App.E.pg.70) Mr. Hamilton's phantom enlisted in the U.S. Army October 28, 1977, did not have a valid Enlistment contract (App D) only valid enlistment between the DA and the enlistee is the DD Form 4 an annex. Mr. Hamilton's injury during an unlawful induction 10 U.S. C. 1214 "No member "hearing was required by the mandatory requirement by Congress, his injuries in the military, required a hearing (App D pgs.63-64) Veteran Affairs Schedule for Rating Disability. Mr. Hamilton's OMPF was so flawed by the government's records keeping they listed him as [DEAD] AR 600-8-1 (App.D.pg .64) his death was not military related, his wife remarried. His 'OMPE 'was flawed, the Medical Board, the Commander of the Battalion did not follow up from the Commander of the Unit and the Board of Medical Survey, or Disposition Board in his case no records (App.D.pg 51b) 1552 the Secretary of the Army was supposed to according to AR 600-8-4 perform a line of duty investigation Mr. Hamilton's complaint to section 706 where a court may set aside a board decision that was " arbitrary or capricious unsupported by substantial evidence, or otherwise not in accordance with law. "i.e.," essentially the standard under which administrative agency decisions are reviewed Walls v United States, 582 F.3d 1358,1367 (Fed. Cir 2009) The Appeals Court based its conclusion on "de facto "separation September 1980 the Claims Court assured itself that it lacked subject matter Jurisdiction the Claims Court erred and granted the Government's Motion to dismiss Pursuant to Fed. R. Civ. P Rule 12 (b)(1) Fed. R. Civ. P. 12(b)(6) 10 U.S.C. 1214 ,37 U.S.C. 204 did not need a second. waiver of sovereign immunity to sue the government under the statute,' it' mandates compensation,

B.

Reason for Granting the Writ

i Granting of Certiorari

This is as straightforward as a Certiorari candidate for Constructive Active-Duty service doctrine, under the Military Pay Act. It is manifestly important, because of the Appeals Court ruling of law in this case at issue, that ruling becomes controlling precedents and, concomitantly, change the precedents in 'Barnick v United States, 591 F.3d 1372, until statutory requirements (1168) are met, *Dilley v Alexander*, 603 F.2d 914 that separation is void ab initio because of the skipped 10 U.S.C.1214 Mandatory Hearing in which *Christian v United States* that the discharge was "statutory infirm" "logically Mr. Hamilton is in Constructive Active Duty. Affecting entitlement and benefits the DD Form 1300 requiring evidence specific in detail of death (whereabouts unknown) AR 600-8-1- suppresses the statutory rights to sue for denied benefits. Affecting not only Mr. Hamilton rights but the rights of future service members. Which goes directly to Stare decisis, and it is promoting an evenhanded, predictable, and consistent development of legal principles, fosters reliance on Judicial decisions, and the question presented. Because Appeals Court departed from the doctrine of stare decisis and *Corner Post Inc. v Board of Governors* 144 S. Ct. 2440 "The Federal Circuit's dismissal rests on a fatal procedural omission: the total failure to apply 5 U.S.C. § 706 review the "Hard Look Standard 'of the ABCMR's 2021 Decision Mr. Hamilton's case is not merely one of administrative oversight; it is a case where the United States Military Officially declared a living service member dead. This erroneous declaration resulted in a total deprivation of Mr. Hamilton identity loss of his marital status, 38-year exclusion from 10 U.S.C.1214. The Claims Court refused to

review the 706 merits- despite the Government's admission of that failure- it sanctioned a legal absurdity: that a living man can be treated as dead by his government without judicial recourse. The Board admitted Mr. Hamilton met referral standards 'prior to discharge' (App. E), the court below accepted the Government's Informal Brief (App. D) invitation to bypass the APA's 'arbitrary and capricious' standard. Under the Pullman-Standard, a court cannot 'defer' to an agency finding that effectively nullifies a mandatory statute (10 U.S.C. § 1214). This Court must decide if the Government can use an 'Informal' procedural shield to insulate a Jurisdictional Void from the judicial review commanded by Congress in the APA. "Where this Courts defined the mixed question of facts and law. Whereby Mr. Hamilton had established the historical facts, to which the Appeals Court had an established that section 1214 is a mandatory command as the rule of law which was undisputed controlled the time of Mr. Hamilton removal from service, section 1214 as applied to established facts Claims Court violated the "hard look" doctrine Mr. Hamilton put before this Court, did those factual allegations in fact violate the rule of law barring any further action by Mr. Hamilton under Constructive Active- Duty service doctrine, Mr. Hamilton bore the burden of establishing the Court's jurisdiction over its claim by preponderance of the evidence. Reynolds v Army & Air Force Exch. Ser 846 F2d 746,748 (Fed. Cir 1988). However, it is well established that the Appeals Court, when determining whether the Claims Court had jurisdiction to have heard Mr. Hamilton's Claim. As a threshold matter, the Appeals Court was required to have accepted as true all undisputed facts asserted in Mr. Hamilton's Complaint and have drawn all reasonable inference in his favor. Normally when considering a motion to dismiss---even one based on lack of subject matter

Jurisdiction-a court must accept all well-pleaded facts as true and draw all reasonable inferences in Plaintiff's favor. Moreover, the Appeals Court was to review the Court of Federal Claims denial of addressing 706 before the dismissal of Mr. Hamilton's Complaint for lack of subject matter Jurisdiction de novo. *Trusted Integration Inc. v United States* 659 F.3d 1159, 1163 (Fed. Cir 2011). "[J]urisdiction [must] be established as a threshold matter." *Weishan Hongda Aquatic Food Co. v United States* 917 F.3d 1353, 1362 (Fed. Cir 2019) It is further well-established that section 1214 is a jurisdictional requirement attached by Congress as a condition of Government's waiver of sovereign immunity by denying the required hearing for the money mandate they waive the immunity. The Appeals Court was required to have strictly construed the statutes 706 and 1214 *Soto v United States* 605 U.S.360 (2025) meaning to avoid stale claims which might prejudice against the government. *Adamo Wrecking Co.* 434 U.S.275 By Strictly construed 10 U.S.C.1214 The government cannot just label a discharge without the statutory requirements Congress has conditionally commanded. Mr. Hamilton is not arguing to the contrary, what is being argued, the Claims Court, Appeals Court also misconstrued the very rule of law that the court created. This Court has been held, where findings are inflamed because of an erroneous view of law; a remnant is the proper course unless the records permit only one resolution of the factual issue, as Constructive Active-Duty Doctrine.

" The mandatory language of 10U.S.C 1214 serves as absolute Congressional Command that overrides the general statute of limitations in 28 U.S.C. 2401. Section 1214 dictates that ' no member of the armed forces may be separated 'for physical disability without a full and fair hearing. Because the Government failed to provide this hearing- choosing instead of Administratively ' erased Mr. Hamilton through a false ' Deceased ' status in the BIRLS record (see App. F)- the purported separation was legal nullity. As a matter of law, a void " separation" cannot trigger the accrual of a claim under 2401. One cannot be " late" to challenge an event that, legally, never occurred due to the Government's failure to satisfy a mandatory statutory command. " The "No Member May Be Separated " Rule, the word "No " is the prohibitory command the Government did not follow, the hearing rule commanded so they had no power to separate Mr. Hamilton. This voidable distinction meaning it has no legal effect it can be challenged at any time, because it never gained the legal life to start running of the 6-year clock.? The Equitable Tolling the BIRLS " Deceased " status constitutes an " extraordinary circumstance " that prevented the filling. You cannot be expected to sue for a hearing while the Government's own record-keeping states that Mr. Hamilton is dead. Under *Adamo Wrecking Co. v United States* 434 U.S. 275 (1975) a Court must look past an agency's ' label ' to see if the action meets the statutory definition. [IF] the ' label 'is found to be a legal nullification, then it cannot be used to trigger a statute of limitations. Because the Government cannot produce the DD Form 4 U.S. Army enlistment contract and it failed the Congressional Command 10 U.S.C 1214, the purported 'separation ' is a legal

nullification. A nullify cannot trigger accrual of a claim under 2501. One cannot be 'late' to challenge a statute under Adamo- never legally existed. Therefore, the Adamo Doctrine overrides the jurisdictional bar of 2501 by demonstrating that the "accrual" of the claim was legal impossibility leaving Mr. Hamilton in the legal fiction doctrine of "Constructive Active Duty. service." Under *Soto v United States* (2024) Mr. Hamilton is entitled to be made whole for the entire 38- year period. The Federal Circuit erred by failing to apply Section 706 standard which would have revealed the original discharge was 'not in accordance with the law' and required full retroactive restoration. " The Writ is needed to resolve the conflict between the 'de facto' administrative actions of the Army and the 'de jure' requirements of the Fifth Amendment and the Christian/ Dilley doctrine." legal fiction " as appellants have never been lawfully terminated from active duty, they are deemed to have served during the time of their illegal release. " *Id.* (quoting *Dilley v Alexander* 627 F 2d 407 ,413(D.C.1980)

a. Historical Facts Established

The Appeals Court's (App. A) established as a matter of factual findings that helped Mr. Hamilton. He 'sought treatment for his eye surgery and was hospitalized for hand surgery 1978 and seen a military ' Battalion Surgeon 'for his back '1978-79 injuries in the late 1970s Claims Court (App C) held 'physician diagnosed the injury as a scleral laceration and performed a "successful surgery on the eye. (App.Bpg.12) Once healed, Mr. Hamilton returned to the Army enlistment office where he was "cleared 'for service". The

District Court 'also noted (App. C) at EFC No.64 at footnote 5' Plaintiff also asserted that he never received a "fair hearing" "Both ,1977- 1978 Hospitalization, triggering of 10 U.S.C. § 1214 In 1977-1978, Mr. Hamilton was hospitalized and underwent surgery for two service-connected conditions. Under Army Regulation 40-501, Chapter 3, and the standard established in *Barnick v. United States*, 591 F.3d 1372 (Fed. Cir. 2010), this medical event created a mandatory duty for the Army to refer Mr. Hamilton's referral to the Disability Evaluation System (DES) Army bypassing this statutory shield. The ABCMR's 2021, final Decision (App. D) finally admitted this "historical fact," stating that these conditions "would have... been a cause for referral to the DES prior to his discharge if his conditions met AR 40-501 "it did "" This admission proves that the 1980 'de facto 'separation was conducted in total absence of the "full and fair hearing" commanded by 10 U.S.C. § 1214. Five Misdiagnoses and the Suppression of Judicial Review: Following this void separation, Mr. Hamilton's attempts to seek relief were thwarted by the Government's maintenance of inaccurate records. These records included Five Misdiagnoses and a period when Mr. Hamilton was falsely listed as "Deceased" AR 600-8-1 (App. E). Because the Government suppressed the true nature of the 1978 injury, the "Historical Fact" necessary to challenge the discharge was unavailable until the 2016 clinical correction. Despite these facts, the Claims courts refused to apply 5 U.S.C. § 706 to the Board's 2021 admission. Instead of reviewing whether the lack of a hearing rendered the 1980 discharge Void Ab Initio under the Adamo Wrecking Doctrine, the courts deferred to the Board's retroactive "fitness" guess. This "Circuit Shuffle" effectively denies him the due process guaranteed by *Barnick*. The Federal Circuit's dismissal rests on a fatal procedural omission: the total failure to

apply 5 U.S.C. § 706 reviews to the ABCMR's 2021 Decision. While the Board admitted (App C pg. 52) Mr. Hamilton met referral standards 'prior to discharge' (App. D), the court below accepted the Government's Informal Brief (App B) invitation to bypass the APA's 'arbitrary and capricious' standard. Under the Pullman-Standard, a court cannot 'defer' to an agency finding that effectively nullifies a mandatory statute (10 U.S.C. § 1214). This Court must decide if the Government can use an 'Informal' procedural shield to insulate a Jurisdictional Void from the judicial review commanded by Congress in the APA. "The Federal Circuit's conclusion is legally flawed under the *Adamo Wrecking Co. And Fisher v United States*. The 'fact' of a 1977 departure cannot constitute a legal discharge 'if the mandatory statutory requirements of 10 U.S.C 1168 and 1214 were never met, the court below treated a " Jurisdictional Void: as a valid administrative act. Under the Pullam-Standard review, the Supreme Court must view this conclusion de novo, because the ' fact ' of leaving the base does not equate to a discharge, but- for 'the illegal separation would be Constructive Active Duty.

b                    The Undisputed Rule of Law

The Court Appeals Judgement rested on a fundamental misunderstanding of the relationship between statutory mandates and jurisdictional time bars. The U. S. Court of Federal Claims committed three reversible errors that warrant this Court's intervention. First, Claims Court erroneously held that a " de facto " separation triggers the six-year statute of limitations under 28 U.S.C.2501, even when that separation violates the express command of 10 U.S.C 1214 Congress mandated that " No member shall be separated " without hearing. By treating illegal separation

as a trigger for the limitations period, the lower Court allowed an administrative default to override a legislative Prohibition. Because of the mandatory condition precedent (the hearing) was never met, Mr. Hamilton's status never legally shifted from "actively" to "separated" and the clock never began to run, under *Corner Post Inc. v Board of Governors* 144 S. Ct. 2440 (2024) also Administrative Procedure Act in *Adamo Wrecking Co. United States* 434 U.S.275 (1978) This, Court held that a Court "must "check if an action meets the statutory definition before it can have legal effect. A5 discharged label is not enough; it must meet the statutory requirements of 10 U.S.C.1214 Mandate Congress commanded also the requirements of statute 10 U.S.C. 1168 (Loper Bright doctrine) emphasizes that agency actions "must "be legally complete and based on actual statutory authority ; *Soto v United States* ,144 S. Ct .2190 (Note: part of the Loper Bright era of 2024 decision) . If the Army didn't follow the steps required by law (1214 the hearing, before the delivery of the DD Form 214) the action was not a final clock-starting event of Mr. Hamilton's 38 years "de facto "separation. never accrued See. *Corner Post Inc. v Board of Governors of the Federal Reserve System* 603, U.S. 779 (.2024); 144 S. Ct. 2440 (decided July 2024) A claim under the APA, (misdiagnosed for 38 years), the injury he did not have legal rights, until the (corrected diagnosis in 2016). The Claims Court's dismissal rests upon a foundation of a " phantom" error regarding claim accrual of a (missing DD Form 4 U.S, Army Enlistment Contract), the instrument starting the clock. Under the threshold inquiry mandated by *Adamo Wrecking Co. v United States* 434 U.S. 275(1978) a Court must determine if the agency's action meets the statutory definition before giving it legal effect. The government's actions the 1980 "de facto ""separation 'was a legal nullity, as it was

executed in direct violation of the mandatory hearing requirements of 10 U.S.C.1214. Under the Adamo Wrecking Doctrine if the, if Mr. Hamilton's separation was illegal nullify for failure to meet the statutory definition, Mr. Hamilton's has a right to continue pay by law.

..... 5 Appeals Court erroneous misconstrued of the rule of law 10 U.S.C 1214, replacement Inf. Br .10 U.S.C.1214 The Court committed reversible error by failing to address Mr. Hamilton's specific invocation of 10 U.S.C 1214 as Barnick v United States, under Loper Bright doctrine, the Court had a mandatory duty to independently interpret whether the 1977 separation was "legally complete ". By ignoring the absence of a 1214 hearing- a jurisdictional prerequisite- the court allowed a void discharge to bar the Secretary's mandatory duty to fulfill back-pay 10 USC 1552 (c)(4)

Mr. Hamilton's deprivation of this property interest Without a DD Form 4 Contract constitutes a (App. A pg. 50) Fifth Amendment violation that falls squarely within the Tucker's Act's waiver of sovereign immunity. Claim, Claims Court allowed the Army to evade the Pullam-Standard de novo review of the jurisdictional void that exists when 'status ' is asserted without ' consent '." This undisputed rule of law for the Claims Court has jurisdiction over " " Illegal Extractions "-- when the government has " direct or positive possession of money that was paid or taken from Mr. Hamilton in a violation of statute or regulations. Because this action was never legally finalized, no final agency action occurred to trigger a time-bar under Soto v United States 144 S. Ct. 2190(2024), per Corner Post Inc. v Board of Governors 144 S. Ct. 2440 (2024) Mr.

Hamilton's claim could not accrue until the injury was 'complete and present 'upon the 2016 MRI medical corrections. To apply a statute of limitations to a Void, non-statutory act constitutes a jurisdictional abdication that this Court must correct. Mr. Hamilton' personal jurisdiction, the statutory failure to produce the DD Form 4 which the government now admits it does not exist, this statutory failure, [the]" legal instrument "capable of attaching military authority to Mr. Hamilton. Section 706, the law says the court "shall 'hold unlawful and set aside agency actions found to be more than statutory jurisdiction. The "shall" Rule; in legal terms, "shall" means the Court has no choice. It is mandatory command from Congress. By the government's 'corrected 'own Informal Br.at 5 (App. D.) admitted the Court "did not address the merits of section 706", the government admitting in records before the Appeals Court, Claims Court refused to obey a Congressional command in its own Corrected informal Br. that the trial did not address the Merits of Mr. Hamilton's 706 The" statute of limitation period, an act that was not legal to begin with. The Courts not addressing 706 the merit of the Missing DD Form 4 the government's 28 U.S.C.2501 is based on a "phantom" Enlistment Contract that never happened, meaning that: the Appeals Court's error its jurisdiction could not address an issue, the Claims Courts did not-address the constitutional question in section 706 (App B) "The Federal Circuit exceeded its appellate authority by attempting to adjudicate 5 U.S.C. 706 doing so the Appeals Court acted as a de facto trial court, violating the separation of functions and denying Mr. Hamilton a meaningful review of the agency admitted 10 U.S.C.1214. Meaning the" Claims Court "does have jurisdiction to consider claims arising under the Due Process Clause of Fifth Amendment". Under the Tucker's Act 28 U.S.C.1491 to adjudicate a Fifth Amendment claim the

government's deprivation of military "status" and "pay" occurred in jurisdictional void-lacking a DD Form 4 Contract and violating the mandatory hearing to deny that Mr. Hamilton's unconstitutional Fifth Amendment "No person shall be ... deprived of life, liberty or property, without due process of the law...[T]he Army promulgated an enforcement order, Weiss v United States 510 U.S.163 (1994) that military power must be exercised with strict constitutional boundaries The Army lacked DD Form 4, the underlying authority. While Mr. Hamilton's injury happened before the unlawful induction requiring that full and fair hearing 10 U.S. Code 1214 Mr. Hamilton injuries in the military "but-for the "illegal separation AR 635-40, Established the procedure for referral to DoDI 1332.18 .8.1 (Mr. Hamilton's Veteran Affairs Schedule for Rating Disability VASRD) (App E pg.64). Claims Court Under 5 U.S.C. § 706(2)(A), a reviewing court must hold unlawful and set aside agency actions "not in accordance with law." This is a direct violation of the Pullman-Standard and effectively deletes the APA from military records cases. If the Army failed to provide a 10 U.S.C .1214 hearing misdiagnosed injury for 38 years, (the denial of disability retirement) the diagnosis was corrected 2016 and finally the Board refused to act. Claims Courts using the date of "de facto " separation rule that Corner Post has essentially declared obsolete for APA-style review. Claims Court's standard for accrual is in direct conflict with this Court's ruling in Corner Post Inc v Board of Governors. Corner Post clarifies that an APA- standard Injury occurs only when Mr. Hamilton has a " complete and present " cause of action therefore Mr. Hamilton MRI the "complete cause of the present injury, the denial by the ABCMR final decision February 8, 2022, was the starting clock. To start the clock in 1980 would have been 38 years before the correction of the injury as Corner Post precedent

this Court has held. Mr. Hamilton was misdiagnosed by the military's own doctors who did not know themselves the truth nature of his injury (App. D) The Army Board for Corrections of Military Records (ABCMR) admitted in its decision the standard under Army Regulation 40-501, Chapter 3 Mr. Hamilton met those conditions: two surgeries required referral to the Disability Evaluation System prior to his discharge. A legal confession that was the "trigger" for a 10USC 1214 hearing (the two surgeries '1977-78, Appx. A) Court 'that in the 70s He sought treatment (Appx B) AR 635-40 Procedure for disability evaluation was the military's obligation to apply the regulations. The Claims Court, denying the merits of 5 U.S.C. 706 review precisely because of his injury as in this Court Soto v United States (2025) 2501 six-year statute of limitations (the barring Act) does not apply to certain retroactive combat-related disability payments. The permanent denial of disability benefits was obscured by 38 years of misdiagnosis. A Veteran cannot "acknowledge " a claim that did not happen until 38 years later Claims Court erroneously substituted its own authority to skip the review of section 706 of the Administrative Procedure Act " after the Claims Court itself " ordered " The reviewing of Mr. Hamilton's Supplement Amended (Phantom DD Form 4 U.S. Army) the merits behind the statute of limitations 28 U.S.C.2501 (App. D) The Government's " Merits Admission Informal Br at 5[ "Mr. Hamilton refers to 5 U.S.C. 706 "Pl.Br.at 2 He appears to assert that the trial Court erred because it " never "Address[ed] the nucleus of Hamilton's Claim. Claims refusal to follow orders of " itself " To address the merits of the (missing DD Form 4 Enlistment Contract) the " phantom "de facto discharge Claims Court based its 28 U.S.C.2501 statute of limitations this is jurisdictional abdication. Recent decision in Soto v United States, signals this Court's

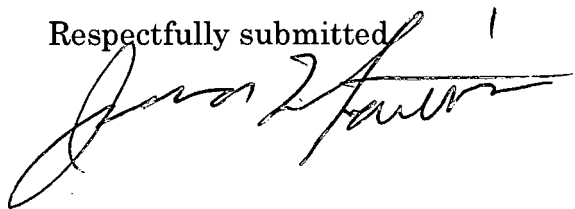
recognition that the six-year "Barring Act" should not serve as an insurmountable wall for Veterans seeking Congressionally-mandated disability benefits. This Certiorari is necessary to resolve the conflict between the Claims Court's rigid time-bar and the mandatory protection of the Military Pay Act and the APA. The claims Court dismissal under Fed. R. Civ. P. 12 (b)(1), error of law. While the Government asserted a statute of limitations bar, the ABCMR's 2021AR 40-501 Standard admission (App. D pg.52 h): impart. Furthermore, there is no evidence that any medical condition prevented the applicant (Mr. Hamilton) from being able to reasonably perform the duties of 'her 'office, grade, rank or rating prior to his discharge. (App F pg. 64) Failure to Report for Exam; whereabouts unknown; Death of Claimant; not military related; (App F pg.63) Beneficiary Identification Record Locator Subsystem (BIRLS) is the information the VA relied on from the government's own records challenging the "full and fair hearing of 1214 violation in the absence of DD Form 4 Contract (App. E) Created a 'jurisdictional void 'under Adamo Wrecking Doctrine, a court cannot use 12(b)(1) procedural shield to insulate a government action that was void from its inception. The Appeals Court should not have granted judgment; the Claims Court should have granted Mr. Hamilton Constructive Active-Duty Service. This Petition should be granted.

## CONCLUSION

The Petitioner, Jernice Hamilton, respectfully requests that this Court grant this Petition for the Writ of Certiorari. The Army Board

for Correction of Military Records (ABCMR) committed a manifest error of law and fact by maintaining a fictitious record of "Whereabouts Unknown" and "Death Not Military Related" (See App. F). This administrative fiction was used to bypass the mandatory jurisdictional command of 10 U.S.C. § 1214, which prohibits separation without a full and fair hearing. Because the Army failed to comply with these jurisdictional prerequisites, the resulting discharge is void ab initio. Under the Constructive Service Doctrine, the Petitioner's military status was never lawfully terminated. This Court should vacate the judgment above and remand this case to ensure that the "Jurisdictional Ghost" created by the Army is corrected to reflect the legal and physical reality of the Petitioner's service.

Respectfully submitted

A handwritten signature in cursive script, appearing to read "James J. [unclear]", written in black ink over the typed text.