

Department of Justice
U.S. Attorney's Office
Northern District of California

FOR IMMEDIATE RELEASE

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U.S. Army Veteran And Former Government Employee Indicted For Wire Fraud

Defendant Allegedly Collected Fraudulent Disability Benefits from Several Government Agencies

SAN FRANCISCO - A federal grand jury indicted Malik Swinton for wire fraud and identity theft, announced United States Attorney Alex G. Tse; U.S. Department of Veterans Affairs Office of Inspector General, Criminal Investigations Division, Special Agent in Charge James Wahleithner; U.S. Department of Justice Office of the Inspector General, Los Angeles Field Division, Special Agent in Charge James K. Cheng; Social Security Administration Office of Inspector General Special Agent in Charge Robb Stickley; Office of Personnel Management Acting Inspector General Norbert Vint; and U.S. Department of Labor Office of Inspector General Special Agent in Charge Abel Salinas.

The indictment describes various claims that Swinton, 40, of Las Vegas, Nevada, made to the Department of Veterans Affairs, the Social Security Administration, and the Department of Labor. According to the indictment, Swinton was discharged from the U.S. Army in February 2001. That month, Swinton submitted a disability claim with the U.S. Department of Veterans Affairs. In the application, Swinton listed, among other physical ailments, degenerative joint disease of the left knee and right knee, and pain in both feet and both ankles. He continued to receive benefits even after he enrolled as an undergraduate at the University of Oklahoma in August 2002 and competed in the Big 12 Indoor Track and Field Championships.

According to the indictment, in July 2012 Swinton applied to the Department of Veterans Affairs for additional disability benefits, claiming that he was unable to work due service-connected post-traumatic stress disorder. Swinton claimed that he suffered from PTSD after his "squad leader pulled his weapon and shot [his] platoon sergeant" in front of him and then later threatened to "kill or hurt Swinton or [his] family if [he] told anyone." According to the indictment, no such incident occurred.

Further, the indictment alleges that from April through October 2012, Swinton devised a plan to submit false information to the Social Security Administration when he applied for disability benefits from that agency. In April, Swinton submitted a letter in connection with a request for benefits that

Swinton claimed was from a doctor. The letter stated Swinton suffered from a number of medical conditions including PTSD and depression. Later, in October 2012, Swinton submitted a second letter to bolster his claim. The second letter was supposedly written by a separate doctor. In reality, neither letter was written or authorized by the persons who supposedly wrote them and both letters contained false information.

Finally, in April 2012, Swinton submitted an application to the U.S. Department of Labor for workers' compensation for injuries that he supposedly sustained while working for the U.S. Department of Justice's Bureau of Prisons. Swinton claimed that he suffered from PTSD as a result of a "stressful, hostile, and harassing" work environment. According to the indictment, Swinton repeatedly submitted fraudulent forms and letters, purportedly written by various doctors, to support his workers' compensation claim. Swinton also never disclosed to the Department of Labor that he was receiving disability benefits from the VA and the Social Security Administration.

In sum, Swinton was charged with seven counts of wire fraud, in violation of 18 U.S.C. § 1343 and one count of identity theft, in violation of 18 U.S.C. § 1028A(a)(1).

Defendant was arrested on December 14, 2018, and he made his initial appearance in federal court in Las Vegas before the Honorable George Foley, Jr. on December 17, 2018. Swinton was released on bond and ordered to appear for further proceedings in San Francisco on December 21, 2018 before the Honorable Sallie Kim.

An indictment merely alleges that crimes have been committed, and all defendants are presumed innocent until proven guilty beyond a reasonable doubt. If convicted, the defendant faces a maximum sentence of 20 years' imprisonment and a fine of \$250,000, plus restitution. In addition, if convicted of the identity theft count, Swinton faces a mandatory two years in prison consecutive to any other sentence. However, any sentence following conviction would be imposed by the court after consideration of the U.S. Sentencing Guidelines and the federal statute governing the imposition of a sentence, 18 U.S.C. § 3553.

Special Assistant U.S. Attorney Christopher Vieira is prosecuting the case with the assistance of Kimberly Richardson. The prosecution is a result of an investigation by the Offices of Inspectors General of the Department of Veterans Affairs, the Department of Justice, the Social Security Administration, the Office of Personnel Management, and the Department of Labor.