

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT GREENEVILLE

FILED

2017 DEC 19 A 11:42

U.S. DISTRICT COURT  
EASTERN DIST. TENN.

DEPT. CLERK

UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

Case No. 2:17-CR-13

KENNETH RICHARD DEVORE, )

also known as "Kenneth Richard )

Waters," )

Defendant.

**SECOND SUPERSEDING INDICTMENT**

The Grand Jury charges:

**Introduction**

At all times relevant hereto:

1. The United States Department of Veterans Affairs ("VA") is a department of the executive branch of the United States Government whose mission is to care for military veterans and their dependents. In furtherance of that mission, the VA runs the largest hospital system in the United States, administers a wide range of financial benefit programs, and cares for national cemeteries.
2. The Veterans Benefit Administration ("VBA") is a subdivision of the VA that provides a variety of benefits and services to Service-members, veterans, and their families.
3. Amongst other benefits and services, the VBA oversees the delivery of disability compensation, a tax-free monetary benefit paid to veterans with disabilities that are the result of a disease or injury incurred or aggravated during active military service.

4. The VBA also provides fiduciary services under its Fiduciary Program to protect the benefits paid to the most vulnerable VA beneficiaries who, because of disease, injury, or infirmities of advanced age, are unable to manage their VA benefits.
5. The defendant, KENNETH RICHARD DEVORE, served in the United States Military from on or about March 15, 1993 to on or about August 14, 1998.
6. From on or about February 9, 2003 through on or about January 20, 2010, the defendant, KENNETH RICHARD DEVORE, was employed by the VA as a Human Resources Assistant and a Certified Veterans Service Representative.
7. From on or about January 1, 2010 through on or about May 11, 2011, the defendant, KENNETH RICHARD DEVORE, owned and operated a business office as an agent for Allstate Insurance in Jonesborough, TN.
8. From in or about May 2011 through in or about January 2013, the defendant, KENNETH RICHARD DEVORE, was employed by the VA as a Rating Veterans Service Representative.
9. From on or about January 27, 2013 through on or about September 30, 2015, the defendant, KENNETH RICHARD DEVORE, was employed by the VA as a Field Examiner under VBA's Fiduciary Program. The defendant was based in Jonesborough, TN.
10. Since on or about March 6, 2016 to the present, the defendant KENNETH RICHARD DEVORE, has been employed as an Investigator for the National Background Investigations Bureau (formerly known as the Federal Investigative Services), United States Office of Personnel Management ("OPM"), an independent agency within the Executive Branch of the United States government that manages the civil service of the federal government.

**COUNTS ONE - SIX**  
(Wire Fraud, 18 U.S.C. § 1343)

11. Paragraphs 1 through 10 of this Second Superseding Indictment are realleged and incorporated as if fully set forth herein.

**The Scheme to Defraud**

12. From on or about July 6, 2009, and continuing through the present, defendant, KENNETH RICHARD DEVORE, devised and intended to devise a scheme to defraud the United States Government, that is the VA, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises.

13. The scheme to defraud consisted of materially false and fraudulent pretenses and representations made by the defendant to the VA in order to secure certain VA disability compensation benefits to which he was not entitled.

**Manner and Means**

14. It was part of the scheme and artifice to defraud that in or around July 2009 the defendant, KENNETH RICHARD DEVORE, told the VA that, due to a disability, he was not able to perform at work.

15. It was further part of the scheme and artifice to defraud that in or around October 2009 the defendant, KENNETH RICHARD DEVORE, told medical examiners at the VA that, due to a disability, he was unable to work, had stopped working, and had been unemployed for several months.

16. It was further part of the scheme and artifice to defraud that in or around October 2009 the defendant, KENNETH RICHARD DEVORE, secured a 100% disability rating from the VA,



indicating “total occupational and social impairment,” based on the defendant’s false statements and representations to the VA.

17. It was further part of the scheme and artifice to defraud that in or around June 2010 the defendant, KENNETH RICHARD DEVORE, submitted a statement to the VA requesting “permanent and total” disability status because his condition was “rapidly declining” and because he was “not able to perform in a gainful capacity.”

18. It was further part of the scheme and artifice to defraud that in or around August 2010 the defendant, KENNETH RICHARD DEVORE, told medical examiners at the VA that, because of his disability, he could not meet the requirements of his previous job at the VA, was unemployed, and could not maintain employment. The defendant also stated that a “recent divorce” was a major setback.

19. It was further part of the scheme and artifice to defraud that in or around September 2010 the defendant, KENNETH RICHARD DEVORE, secured a “permanent and total service-connected disability” rating from the VA, indicating total disability with “evidence of permanency established,” based on the defendant’s false statements and representations to the VA.

20. It was further part of the scheme and artifice to defraud that, although the defendant, KENNETH RICHARD DEVORE, told VA medical examiners in October 2009 that he was unable to work and was unemployed, he was in fact employed as a Veterans Service Representative and had already applied to become an Allstate Insurance agent and submitted an Allstate Agency Business Plan.

21. It was further part of the scheme and artifice to defraud that, although the defendant, KENNETH RICHARD DEVORE, told the VA in June and August 2010 that he was not able to

work and was unemployed, he had owned and operated an agency office for Allstate Insurance in Jonesborough, TN since in or around January 2010.

22. It was further part of the scheme and artifice to defraud that, although the defendant, KENNETH RICHARD DEVORE, told VA medical examiners in August 2010 that a “recent divorce” was a major setback, the defendant was not divorced.

23. It was further part of the scheme and artifice to defraud that, although the defendant, KENNETH RICHARD DEVORE, secured a “permanent and total” disability status from the VA in or around September 2010, he was in fact able to gainfully work, and he continued to work in the following positions on or about the following dates: Allstate Insurance agent and agency-owner (January 2010 – May 2011); VA Rating Veterans Service Representative (May 2011 – January 2013); VA Field Examiner (January 2013 – September 2015); and OPM Investigator (March 2016 – present).

#### **Execution**

24. On or about each of the dates set forth below, in the Eastern District of Tennessee, and elsewhere, the defendant, KENNETH RICHARD DEVORE, for the purpose of executing the scheme described above, caused to be transmitted by means of wire communication in interstate commerce the signals described below for each count, each transmission constituting a separate count:

Count	Date	Amount	Type
1	12/31/2012	\$3,580.00	Electronic payment transaction from the U.S. Treasury outside Tennessee to a Regions Bank account in Tennessee
2	12/31/2013	\$3,633.70	Electronic payment transaction from the U.S. Treasury outside Tennessee to a First Tennessee Bank account in Tennessee
3	12/31/2014	\$3,777.11	Electronic payment transaction from the U.S. Treasury outside Tennessee to a First Tennessee Bank account in Tennessee
4	12/31/2015	\$3,798.71	Electronic payment transaction from the U.S. Treasury outside Tennessee to a First Tennessee Bank account in Tennessee
5	12/30/2016	\$3,810.10	Electronic payment transaction from the U.S. Treasury outside Tennessee to a First Tennessee Bank account in Tennessee
6	11/01/2017	\$3,810.10	Electronic payment transaction from the U.S. Treasury outside Tennessee to a First Tennessee Bank account in Tennessee

All in violation of Title 18, United States Code, Section 1343.



**COUNT SEVEN**

(Theft of Public Money, 18 U.S.C. § 641)

25. Paragraphs 1 through 24 of this Second Superseding Indictment are realleged and incorporated as if fully set forth herein.

26. From on or about September 1, 2009, and continuing through the present, in the Eastern District of Tennessee, and elsewhere, the defendant, KENNETH RICHARD DEVORE, willfully and knowingly did steal, purloin, and convert to his own use, and the use of another, a sum in excess of \$1,000 belonging to the United States, that is, the defendant, KENNETH RICHARD DEVORE, knowingly and willfully did steal, purloin, and convert to his own use, and the use of another, approximately \$142,000 in disability compensation payments from the Veterans Benefits Administration of the United States Department of Veterans Affairs, all in violation of Title 18, United States Code, Section 641.

**COUNT EIGHT**

(Mail Fraud, 18 U.S.C. § 1341)

27. Paragraphs 1 through 9 of this Second Superseding Indictment are realleged and incorporated as if fully set forth herein.

28. Under VBA's Fiduciary Program, Field Examiners are employed to ensure that incompetent beneficiaries receive all the benefits that they are entitled to and take all necessary actions to protect a beneficiary's assets. VA Field Examiners conduct examinations to help find suitable fiduciaries/payees for veteran beneficiaries who are deemed incompetent due to legal, mental, and physical disability. VA Field Examiners also conduct on-site fact-finding interviews

and examinations to ascertain the veteran beneficiary's income and assets and to observe his or her physical and mental condition, living arrangements, and social adjustment.

29. Under the provisions of Tennessee law, Tenn. Code Ann. § 32-1-112, a last will and testament must, if drafted during the lifetime of the testator (the person making the will or leaving the legacy), be given only to the testator *or* to some person authorized by the testator in writing.

30. After his appointment as Field Examiner in January 2013, the defendant, KENNETH RICHARD DEVORE, was assigned to an incompetent veteran beneficiary, D.N.

31. D.N. served in the United States Army from in or around June 1976 to in or around June 1986, reached the rank of staff sergeant, and was honorably discharged.

32. In or around April 1987, D.N. was declared incompetent by a Knox County, TN court.

33. In or around 2004, Regions Bank, Kingsport, TN, was appointed as D.N.'s guardian and fiduciary.

#### **The Scheme to Defraud**

34. The objective of the scheme to defraud was for the defendant, KENNETH RICHARD DEVORE, to obtain money belonging to D.N. by means of materially false and fraudulent pretenses, representations, and promises.

35. The scheme to defraud consisted of materially false and fraudulent pretenses and representations made to D.N. by the defendant about the contents of D.N.'s purported Last Will and Testament, dated June 10, 2015.

36. The scheme to defraud also consisted of materially false and fraudulent pretenses and representations made by the defendant in D.N.'s purported Last Will and Testament, dated June 10, 2015.



### **Manner and Means**

37. It was part of the scheme and artifice to defraud that the defendant, KENNETH RICHARD DEVORE, used his position as a VA Field Examiner to meet and gain the trust of an incompetent veteran, D.N.

38. It was further part of the scheme and artifice to defraud that the defendant, KENNETH RICHARD DEVORE, used his position as a VA Field Examiner to learn about the financial assets of D.N.

39. It was further part of the scheme and artifice to defraud that the defendant, KENNETH RICHARD DEVORE, told D.N. that D.N. needed to execute a Last Will and Testament.

40. It was further part of the scheme and artifice to defraud that the defendant, KENNETH RICHARD DEVORE, drafted a Last Will and Testament for D.N., dated June 10, 2015.

41. It was further part of the scheme and artifice to defraud that the defendant, KENNETH RICHARD DEVORE, named himself in that will as the sole beneficiary of D.N.'s financial accounts, to include guardianship checking, personal checking, savings, money market, government securities, and all other financial accounts, valued at that time at over \$680,000.

42. It was further part of the scheme and artifice to defraud that the defendant, KENNETH RICHARD DEVORE, listed himself in that will as the sole beneficiary of any Residuary Estate at D.N.'s death.

43. It was further part of the scheme and artifice to defraud that the defendant, KENNETH RICHARD DEVORE, named Regions Bank and himself as the Executors of D.N.'s purported Last Will and Testament, dated June 10, 2015.

44. It was further part of the scheme and artifice to defraud that the defendant, KENNETH RICHARD DEVORE, represented to D.N. that the defendant listed the United States Army Signal Corps as the beneficiary of D.N.'s financial accounts, as D.N. had requested. The defendant used this false representation to secure D.N.'s signature that was attached to the fraudulent will dated June 10, 2015.

45. It was further part of the scheme and artifice to defraud that on or about June 10, 2015, the defendant, KENNETH RICHARD DEVORE, drove D.N. in a government-owned vehicle to a United Parcel Service (UPS) store in Knoxville, TN so that D.N.'s signature could be notarized and then attached to the fraudulent Last Will and Testament, dated June 10, 2015.

46. It was further part of the scheme and artifice to defraud that the defendant, KENNETH RICHARD DEVORE, did not give the finalized, fraudulent June 10, 2015 will, or a copy of that will, to D.N.

47. It was further part of the scheme and artifice to defraud that, on the very day that he drove D.N. to the UPS store to secure a notarized signature, the defendant, KENNETH RICHARD DEVORE, then carried the fraudulent, original June 10, 2015 will to a separate mailing location in Jonesborough, TN and mailed it to Regions Bank.

48. It was further part of the scheme and artifice to defraud that the defendant, KENNETH RICHARD DEVORE, prepared a typewritten letter, purportedly from D.N., that the defendant enclosed with the fraudulent June 10, 2015 will that he mailed to Regions Bank, authorizing the bank to "keep this in my file for safekeeping."

### **Execution**

49. From on or about January 27, 2013, through on or about June 15, 2015, in the Eastern District of Tennessee and elsewhere, the Defendant, KENNETH RICHARD DEVORE, with the intent to defraud, devised and willfully participated in, with knowledge of its fraudulent nature, the above-described scheme and artifice to defraud and obtain money by materially false and fraudulent pretenses, representations, and promises.

50. On or about June 10, 2015, in the Eastern District of Tennessee, for the purpose of executing or attempting to execute the above-described scheme and artifice to defraud and deprive, the defendant, KENNETH RICHARD DEVORE, knowingly caused to be delivered by mail or by a private and commercial interstate carrier, according to the direction thereon, the following matter: the purported Last Will and Testament of D.N., dated June 10, 2015, which contained materially false, fraudulent, and misleading statements and omissions, and a letter purportedly from D.N. authorizing Regions Bank to keep the fraudulent will, all in violation of Title 18, United States Code, Section 1341.

### **COUNT NINE**

(Financial Conflict of Interest, 18 U.S.C. § 208)

51. Paragraphs 1 – 9 and Paragraphs 28 - 50 of this Second Superseding Indictment are realleged and incorporated as if fully set forth herein.

52. From on or about January 27, 2013, through on or about June 15, 2015, in the Eastern District of Tennessee, and elsewhere, the defendant, KENNETH RICHARD DEVORE, being an employee of the executive branch of the United States Government, knowingly and willfully participated personally and substantially as a Government employee, through recommendation, the rendering of advice, and otherwise, in particular matters which, to his knowledge, he had a



financial interest, that is, the defendant, a Field Examiner for the Department of Veterans Affairs, advised a veteran, D.N., to whom he was assigned, that the veteran needed a last will and testament, and the defendant then drafted a will, secured D.N.'s signature, and named himself as the sole beneficiary of all of D.N.'s financial accounts, totaling over \$680,000, all in violation of Title 18, United States Code, Sections 208 and 216(a)(2).

**COUNT TEN**

(False Statement, 18 U.S.C. § 1001)

53. Paragraph 10 of this Second Superseding Indictment is realleged and incorporated as if fully set forth herein.

54. That on or about December 30, 2015, in the Eastern District of Tennessee, and elsewhere, the defendant, KENNETH RICHARD DEVORE, did willfully and knowingly make and use a false writing and document, knowing the same to contain a materially false, fictitious, and fraudulent statement and entry in a matter within the jurisdiction of the executive branch of the Government of the United States, that is, in Section 13A ("Employment Activities") on an Electronic Questionnaire for Investigations Processing ("e-QIP") form submitted to the United States Office of Personnel Management, the defendant, KENNETH RICHARD DEVORE, for the purpose of undergoing a required National Security Background Investigation, required as a condition of obtaining employment with OPM in Knoxville, TN, answered and certified "No" when asked if he had left his former job as a VA Field Examiner "by mutual agreement following charges or allegations of misconduct," well knowing and believing that the true answer was "Yes" because he left employment as a VA Field Examiner by Agreement, signed and dated September 28, 2015, following and related to allegations of defendant's misconduct. In violation of Title 18, United States Code, Section 1001.

**COUNT ELEVEN**

(False Statement, 18 U.S.C. § 1001)

55. Paragraph 10 of this Second Superseding Indictment is realleged and incorporated as if fully set forth herein.

56. That on or about December 23, 2015, in the Eastern District of Tennessee, and elsewhere, the defendant, KENNETH RICHARD DEVORE, did willfully and knowingly make and use a false writing and document, knowing the same to contain a materially false, fictitious, and fraudulent statement and entry in a matter within the jurisdiction of the executive branch of the Government of the United States, that is, in the "Background Information" section of a Declaration for Federal Employment, submitted to the United States Office of Personnel Management, the defendant, KENNETH RICHARD DEVORE, for the purpose of obtaining employment with OPM in Knoxville, TN, answered and certified "No" when asked in question 12 if "During the last 5 years, have you been fired from any job for any reason, did you quit after being told you would be fired, did you leave any job by mutual agreement because of specific problems . . . ," well knowing and believing that the true answer was "Yes" because he left employment as a VA Field Examiner by Agreement, signed and dated September 28, 2015, because of allegations of defendant's misconduct. In violation of Title 18, United States Code, Section 1001.

**COUNT TWELVE**

(False Statement, 18 U.S.C. § 1001)

57. Paragraph 10 of this Second Superseding Indictment is realleged and incorporated as if fully set forth herein.

58. That on or about January 15, 2016, in the Eastern District of Tennessee, and elsewhere, the defendant, KENNETH RICHARD DEVORE, did willfully and knowingly make a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the Government of the United States, that is, during the course of an interview with an Investigator for the Federal Investigative Services (now known as the National Background Investigations Bureau), a United States Government agency within the United States Office of Personnel Management, the defendant, KENNETH RICHARD DEVORE, for the purpose of obtaining employment with OPM in Knoxville, TN, falsely stated that he resigned from the VA because he did not feel the VA was a good agency to work for, that he left voluntarily, and that there were no problems. The statements and representations were false because, as KENNETH RICHARD DEVORE then and there knew, he resigned as a VA Field Examiner by Agreement, signed and dated September 28, 2015, because of allegations of defendant's misconduct. In violation of Title 18, United States Code, Section 1001.

#### **FORFEITURE ALLEGATIONS**

59. The allegations contained in Counts 1 – 7 of this Second Superseding Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

60. Upon conviction of the offenses in violation of Title 18, United States Code, Sections 641 and 1343 and set forth in Counts 1 – 7 of this Indictment, the defendant, KENNETH RICHARD DEVORE, shall forfeit to the United States of America, pursuant to Title 18, United



States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the offenses.

61. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

All pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

A TRUE BILL:

  
FOREPERSON

Approved:

J. DOUGLAS OVERBEY  
United States Attorney

By: 

DAVID L. GUNN  
Assistant United States Attorney