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Fourth Circuit Court of Appeals

(Note: You may access the court's opinion by clicking on the case name)

- (1) No Plain Error Existed to Require Reversal of Conviction Based on *Brady v. Maryland* Claim**
- (2) Government Was Required to Submit to Jury and Prove Beyond Reasonable Doubt the Amount of Benefits Defendant Falsely Obtained Because Amount Was Element of Offense**

[United States v. Catone](#), ___ F.3d ___, 2014 WL 5158197 (4th Cir. Oct. 15, 2014). The defendant was convicted of making a false statement in connection with his receipt of federal workers' compensation benefits. (1) To verify his continued eligibility for benefits, the defendant in 2008 submitted a form in which he declared that he was unemployed—but in fact he had worked then. The defendant's *Brady v. Maryland* claim, raised for the first time on appeal, was based on the government's failure to disclose to the defendant at trial a 2007 form submitted by the defendant in which he reported that he had worked that year. The court rejected that claim for several reasons. First, because the defendant completed the 2007 form, he was aware of the form, and information actually known by a defendant falls outside the *Brady* rule. Second, the form was a public document and could have been uncovered pursuant to a diligent investigation by the defense. Third, the defendant was unable to show that if the form had been disclosed, it would have likely changed the verdict. Instead of undermining the government's theory of intent, the 2007 form demonstrated that the defendant knew he was required to disclose any employment but nevertheless failed to do so on the form he submitted in 2008. The court ruled that the defendant had failed to establish plain error with his *Brady* claim. (2) Because falsely-obtained benefits over \$1,000 increases the maximum punishment to which the defendant is exposed, the court ruled that this amount constitutes an element of the offense under *Alleyne v. United States*, 133 S. Ct. 2151 (2013), and the failure to submit the issue to the jury and require the government to prove it beyond a reasonable doubt was constitutional error. And the error was not harmless based on the facts in this case.