

United States District Court
FOR THE
DISTRICT OF HAWAII

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

THE UNITED STATES OF AMERICA

vs.

RICHARD JEFFREY BLAIR

Criminal No. 13,032

MAY 10 1973
at Honolulu and
WALTER A.Y.H. CHINN, CLERK
(s) Leimomi Y. C. Calderon
Deputy

To Richard Jeffrey Blair
Lloyd House, Caltech
Pasadena, California 91109

☒ TAKE NOTICE that the above entitled case has been set for **Sentence** in said Court at Honolulu, Hawaii, on July 2, 1973, at 3:00 p.m. before Judge Martin Pence in Courtroom No. II.

☐¹ As surety for the said defendant you are required to produce ² in said Court at said time, otherwise the bail may be forfeited.

May 18, 19 73

WALTER A.Y.H. CHINN, Clerk

By (s) Leimomi Y. C. Calderon
Deputy Clerk

DO NOT PUBLISH

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

United States of America,
Plaintiff-Appellee,
vs.
Richard Jeffrey Blair,
Defendant-Appellant.)

No. 73-2495
MEMORANDUM

Appeal from the United States District Court
for the District of Hawaii

Before: KOELSCH and DUNIWAY, Circuit Judges, and GRAY,* District Judge.

We are obliged to reverse the judgment.

The government's proof was all to the effect that appellant "mutilated" his Selective Service Registration and Notice of Classification certificates. It showed no more than that he burned the borders. But the charge as laid in the indictment was that he "destroyed" the certificates. This variance between the indictment and the proof as to the method and manner by which the offense was committed is material and fatal. *Gipe v. State*, 165 Indiana 433, 75 NE 881 (1905). With a bit more attention in drafting this indictment, the government could easily have avoided this pitfall, for the relevant statute broadly provides that: "Any person... (3) who forges, alters, knowingly destroys, knowingly mutilates, or in any manner changes any such certificate or any notation thereon..." is guilty of a felony. 50 U.S.C.App. 462(b)(3).

REVERSED.