

MARTIN AKERMAN v. DEPARTMENT OF THE ARMY

Docket # DC-0752-23-0457-I-1

Clarification per Order and Request for Interim Remedy

Summary Page

Case Title : MARTIN AKERMAN v. DEPARTMENT OF THE ARMY

Docket Number : DC-0752-23-0457-I-1

Pleading Title : Clarification per Order and Request for Interim Remedy

Filer's Name : Martin Akerman

Filer's Pleading Role : Appellant

Details about the supporting documentation

#	Title/ Description	Mode of Delivery
1	Attachment 1: Notice of Intent to Sue	Uploaded
2	Attachment 2: Resignation, National Guard Bureau	Uploaded

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Clarification per Order and Request for Interim Remedy

Online Interview

1. Would you like to enter the text online or upload a file containing the pleading?

Enter Online

2. Please enter text of your pleading.

May it please the court: The Pro Se Petitioner is not seeking double remedy and the Constructive Dismissal is already before the 4th Circuit On Appeal, having been exhausted through EEOC (Attachment 1 - Notice of intent to sue) The claim is timely as filed from recent evidence as provided in Dkt.5 (Army National Guard on 25 April 2023). Additional Facts: The Agency's failure to respond to inquiries from the Office of Personnel Management (OPM) interfered with the Pro Se Petitioner's property interest in their entitlement to disability retirement, by causing undue delay and hardship that prevented them from obtaining the benefits to which they are entitled. Claims: The Agency's repeated shifting of blame for the false arrest and imprisonment interfered with the Pro Se Petitioner's property interest in their position, their entitlement to disability retirement, by denying them a fair and impartial hearing that could have established liability for the harm they suffered. The Pro Se Petitioner's demand for an attorney under the 6th Amendment and invocation of jurisprudence related to deference to the Merit Systems Protection Board (MSPB) are efforts to protect their property interest in their entitlement to disability retirement, by ensuring a fair and just resolution of their case that takes into account all of the relevant facts and evidence. The Pro Se Petitioner's request for a status conference and discovery is an effort to protect their property interest in their entitlement to disability retirement, by uncovering the truth behind their false arrest and imprisonment and establishing liability for the harm they suffered. *Copeland v. Walker*, E.D.N.Y.2003, 258 F.Supp.2d 105, holds that federal courts may not grant a writ of habeas corpus to a state petitioner unless the petitioner has exhausted the remedies available in state courts or there is either an absence of available state corrective process or the existence of circumstances rendering such process ineffective to protect the rights of prisoners. In *Gilstrap v. Godwin*, the court held that exhaustion of remedies requires the petitioner to attempt to do for himself what he asks the habeas corpus court to do for him. This means that the petitioner must first exhaust all available state remedies before seeking relief from a federal court. Similarly, in *Renfro v. Swenson*, the court emphasized that the exhaustion of state remedy rule should ordinarily be strictly adhered to before a federal court accepts habeas corpus jurisdiction. This means that federal courts should generally require petitioners to exhaust state remedies before considering their habeas corpus petitions. The Pro Se Petitioner invokes jurisprudence related to deference to the Merit Systems Protection Board (MSPB), as established in *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, to ensure a fair and just resolution of their case. The Pro Se Petitioner expects a status conference and discovery in order to uncover the truth behind their false arrest and imprisonment and to establish liability for the harm they have suffered. The Brady rule requires the prosecution to

disclose any evidence favorable to the accused that is material to guilt or punishment. Additionally, the provision of AEDPA that restricts evidentiary hearings on habeas claims does not modify the rule governing expansion of the record, meaning that the two provisions serve different but related purposes and are not in conflict with each other. In light of these precedents, a demand for discovery may be supported in some cases where a prisoner seeks habeas relief and the evidence sought is relevant to their claims. The Pro Se Petitioner demands urgent intervention to place the Petitioner in a paid status with health benefits, pending resolution of all controversies.

3. Does your pleading assert facts that you know from your personal knowledge?

Yes

4. Do you declare, under penalty of perjury, that the facts stated in this pleading are true and correct?

Yes

Return Mail Processing Center
8551 East Anderson Dr #108
Scottsdale, AZ 85255

USPS CERTIFIED MAIL



9214 8901 4298 0470 2306 49

0006403296000011

Equal Employment Opportunity Commission
Notice of Intent to Sue
PO BOX 77960
Washington, DC 20013



010200000892714



See Important Information Enclosed


7 June 2022

Martin Akerman, Pro Se
 2001 North Adams Street, Unit 440
 Arlington, VA 22201

NOTICE OF INTENT TO SUE

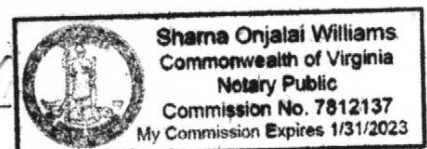
1. I intend to file a civil action under Section 15(d) of the Age Discrimination in Employment Act of 1967, as amended. Ref. 29 CFR § 1614.201
2. Martin Akerman
 2001 North Adams Street, Unit 440
 Arlington, VA 22201
 202-656-5601
3. Pro Se
4. Department of Defense (including Department of the Air Force, Department of the Army, National Guard Bureau, and Office of the Under Secretary for Intelligence - DCSA)
 Pentagon, Washington, DC
5. 19 May 2022 - 2 June 2022
6. Statement of the nature of the alleged discriminatory action (Termination):
 - a. There exists in the Department of Defense a taint and bias against individuals who are 40 years of age or older that stems from the cultural adoption of DOPMA.
 - b. I was constructively discharged from my tenured Federal GS-15, Step 10 position.
 - c. The agency took impermissible discriminatory actions, violated my right to due process and lied about my ability to obtain and maintain a security clearance, resulting in working conditions that are so intolerable that any reasonable person would feel compelled to resign.

7. Signed:



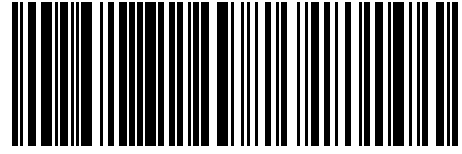
Martin Akerman

County/City of Arlington
 Commonwealth/State of Virginia
 The foregoing instrument was acknowledged
 before me this 7 day of June,
2022, by
Martin Akerman
 (name of person seeking acknowledgement)
Shae Williams
 Notary Public
 My Commission Expires: 01-31-2023



Return Mail Processing Center
8551 East Anderson Dr #108
Scottsdale, AZ 85255

USPS CERTIFIED MAIL



9214 8901 4298 0470 1538 18

0006394734000011

General Daniel R. Hokanson
Chief, National Guard Bureau
111 S. George Mason Drive
Arlington, VA 22204-1373



010600000762686



See Important Information Enclosed

6 June 2022

Martin Akerman
2001 North Adams Street, Unit 440
Arlington, VA 22201
202-656-5601

General Daniel R. Hokanson
Chief, National Guard Bureau
111 S. George Mason Drive
Arlington, VA 22204-1373

Letter of Resignation

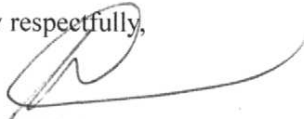
General Hokanson,

I hereby resign from my position as Chief Data Officer of the National Guard Bureau.¹²³

The agency took impermissible discriminatory actions, violated my right to due process and lied about my ability to obtain and maintain a security clearance, placing me on Notice Leave (5 U.S. Code § 6329b) and in an indefinite unpaid suspension status, resulting in working conditions that are so intolerable that any reasonable person would feel compelled to resign.

I elect to incur a debt to FEHB only until the end of this current pay period, 18 June 2022.

Very respectfully,



Martin Akerman
makerman.dod@gmail.com

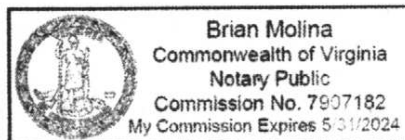
CC: Dr. Clark Cully, Acting Chief Data Officer, Department of Defense
Honorable Christine Wormuth, Secretary of the Army
Honorable Frank Kendall, Secretary of the Air Force
Maj. Gen. Janson Boyles, Mississippi, Chairman, NGAUS
Governor Asa Hutchinson, Arkansas, Chairman, National Governors Association
Senator Tim Kaine, State of Virginia

¹ 44 U.S. Code § 3520

² 10 U.S. Code § 10501 - The National Guard Bureau is a joint activity of the Department of Defense.

³ The National Guard Bureau is the channel of communications on all matters pertaining to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States between (1) the Department of the Army and Department of the Air Force, and (2) the several States.

County/City of Arlington
Commonwealth/State of Virginia
The foregoing instrument was acknowledged
before me this 5 day of June,
2022, by
Martin Akerman
(name of person seeking acknowledgement)
Brian Molina
Notary Public
My Commission Expires: 05/31/2024





Privacy Act Release
General Casework

Provisions of the Privacy Act of 1974 (Title 5, Section 552A of the United States Code) require congressional offices to obtain written permission from an individual before a federal agency can release any specific information to the Senator. Please complete the following Privacy Release Authorization and return it to our office as directed below. Family members, friends or other interested parties generally may not authorize the release of information on your behalf.

Constituent Information

Name: Mr. Martin Akerman **Address:** 2001 North Adams Street 440 Arlington, VA 22201

Preferred Name:
Martin

Date of Birth:
[REDACTED]

Email Address: [REDACTED] **Phone Number:** [REDACTED] **Social Security Number:** [REDACTED]

Case Details

Do you currently have an open case for the matter described above with another U. S. Senator or Representative?
No

Federal Agency Involved: US Department of Defense, Office of Special Counsel **Account/Claim Number:** MA-21-1602

Date of Birth: [REDACTED] **Your Place of Birth:** [REDACTED]

Tell us about your case

Briefly describe your situation.

My name is Martin Akerman and I am the Chief Data Officer of the National Guard. I was the Director of Data Strategy at the Department of the Air Force in my previous role. The job of a good CDO is to increase organizational transparency, improve efficiencies and position data for information superiority. This has huge National Security implications in the case of CDO's in the Department of Defense. I am a leading CDO in the Department of Defense, the only one directly representing the 54 States and Territories. The Department of Defense is currently utilizing Prohibited Personnel Practices to push me out. These include falsifying documentation and leveraging a seemingly untouchable Security Clearance process to disqualify me from my position. The OSC appears powerless against the Department of Defense and I am kindly requesting for you to help me get a status on my OSC case including 9 PPPs dating back to the Air Force and through the National Guard. I am also kindly asking you to help me navigate a solution with the Department of Defense through OSC. Our country cannot afford to take our brightest digital talent and destroy them professionally for doing their job exceptionally well. This incentive to maintain

status quo and disincentive to innovate, if left unmitigated, will be the single reason we will not be able to outpace our adversaries and inevitably lose.

I hereby authorize the office of U.S. Senator Tim Kaine to intercede on my behalf, and review all relevant documentation that Senator Kaine or his staff deems necessary in connection with my request for assistance. I further understand that the Senator's office cannot request an application be granted, and expedite requests are reviewed on a case-by-case basis by the agency. The information I have provided is true and accurate to the best of my knowledge and belief. The assistance I have requested from Senator Kaine is in no way an attempt to violate any federal, state or local law.

Signature: _____



Date: FEB, 17, 2022

Please return this form via mail, Email or fax to:

Senator Tim Kaine
ATTN: Constituent Services
231 Russell Senate Office Building
Washington, DC 20510
fax: (202) 228-6363
Email: Kaine_Casework@kaine.senate.gov



NATIONAL GUARD BUREAU
1636 DEFENSE PENTAGON
WASHINGTON DC 20301-1636

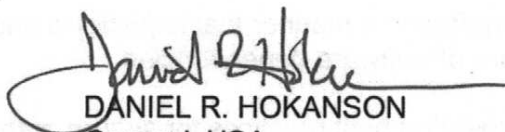
DEC 20 2021

MEMORANDUM FOR ALL NATIONAL GUARD PERSONNEL

Subject: Appointment of a National Guard Bureau Chief Data Officer and Creating Competitive Advantage by positioning Data as a Strategic Asset

Reference: National Guard Strategic Data Management Framework, 08 June 2021

1. In accordance with the reference, I hereby designate Mr. Martin Akerman as the National Guard Bureau (NGB) Chief Data Officer (CDO).
2. The NGB CDO will lead the utilization and governance of data across the National Guard.
3. The NGB CDO, in coordination with the Army National Guard and the Air National Guard, will lead the National Guard's Implementation Plan of the Department of Defense Data Strategy. See the attached "Supporting Department of Defense Data 'Decrees'" for more information.
4. The point of contact is Mr. Martin Akerman; NGB-J6; 703-607-7125.


DANIEL R. HOKANSON
General, USA
Chief, National Guard Bureau

Attachment:
As stated

ATTACHMENT

SUPPORTING DEPARTMENT OF DEFENSE DATA 'DECREES'

1. The Department of Defense (DoD) released a memorandum, on 05 May 2021, outlining the importance of data management in establishing information superiority and enabling better decision-making. The National Guard plays a key role in the globally integrated and partnered Joint Force, designed and able to out-think, out-maneuver, and out-fight any adversary under conditions of disruptive change.
2. National Guard Bureau is adopting the five DoD Data 'Decrees' as outlined in the DoD memorandum by:
 - a. Maximizing data sharing and rights for data use: all DoD data is an enterprise resource.
 - b. Publishing data assets in the DoD federated data catalog along with common interface specifications.
 - c. Using automated data interfaces that are externally accessible and machine-readable; ensure interfaces use industry-standard, non-proprietary, preferably open-source, technologies, protocols, and payloads.
 - d. Storing data in a manner that is platform and environment-agnostic, uncoupled from hardware or software dependencies.
 - e. Implementing best practices for secure authentication, access management, encryption, monitoring, and protection of data at rest, in transit, and in use.
3. The Joint Force will rapidly integrate, evaluate, and interpret data with artificial intelligence, machine language, and big data analytics. The National Guard Bureau Chief Data Officer will ensure the necessary data assets and expert resources are ready and empowered to help the National Guard achieve Joint All-Domain Operations, Senior Leader Decision Support and Executive Analytics while positioning our data to be visible, accessible, understandable, linked, trusted, interoperable, and secure (VAULTIS).
4. The National Guard will leverage better and faster human and machine-aided decision making to accelerate its response to changes in the operational environment (in collaboration with allies and partners), while adopting a rapid, iterative, and modular approach to capability development that will reduce costs, technology obsolescence, and acquisition risk.

Certificate Of Service

e-Appeal has handled service of the assembled pleading to MSPB and all of the Parties.

Following is the list of the Parties in the case:

Name & Address	Documents	Method of Service
MSPB: Washington Regional Office	Clarification per Order and Request for Interim Remedy	e-Appeal / e-Mail
Eugene R. Ingrao, Sr. Agency Representative	Clarification per Order and Request for Interim Remedy	e-Appeal / e-Mail