

MARTIN AKERMAN v. DEPARTMENT OF THE ARMY
Docket # DC-0752-23-0457-I-1
MOTION FOR CERTIFICATION OF INTERLOCUTORY APPEAL
Summary Page

Case Title : MARTIN AKERMAN v. DEPARTMENT OF THE ARMY

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

Pleading Title : MOTION FOR CERTIFICATION OF INTERLOCUTORY APPEAL

Filer's Name : Martin Akerman

Filer's Pleading Role : Appellant

Details about the supporting documentation

N/A

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Online Interview

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

See attached pleading text document

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

Yes

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

Yes

**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
WASHINGTON REGIONAL OFFICE**

MARTIN AKERMAN,
Appellant,
V.
NATIONAL GUARD BUREAU,
Agency.

DOCKET NUMBER
DC-0752-23-0457-I-1

DATE: May 18, 2023

MOTION FOR CERTIFICATION OF INTERLOCUTORY APPEAL

INTRODUCTION

Pursuant to 5 C.F.R. § 1201.93, I, Martin Akerman, as the appellant, respectfully submit this request for certification of interlocutory appeal to the Board regarding the May 18, 2023, ruling of the Administrative Judge (AJ) denying my request for a status conference and a comprehensive "Burgess Order," (Notice).

STATEMENT OF FACTS

This case originated when I filed a claim against the National Guard Bureau (the agency). In response to my filing, the AJ issued a series of orders outlining my burden for each of my identified claims. On May 18, 2023, I requested a status conference and a comprehensive "Burgess Order." The AJ denied this request on the grounds that he will not set a status conference until determining if the Board has jurisdiction over my claims and that he has already issued several orders advising me of my burden for each of my identified claims.

ARGUMENT

I request that the AJ certify the ruling made on May 18, 2023, to the Board for interlocutory review. The AJ's ruling involves an important question of law and policy, demonstrating a substantial ground for differing opinions. An immediate ruling will materially advance the completion of the proceedings as it will clarify the procedural responsibilities of both parties, promote better communication, and ensure a fair and effective administration of this appeal.

The *Burgess v. Merit Systems Protection Board*, 758 F.2d 641 (Fed. Cir. 1985), case requires such notice before an adverse ruling may be made. By denying my request for a comprehensive "Burgess Order," I argue that I was not fully informed of the burdens and standards of proof of my claim, potentially leading to an unfair disadvantage in this appeal. Therefore, I respectfully submit that the denial of my request involves an important question of law.

CONCLUSION

I respectfully request that the AJ certify this question for interlocutory appeal to allow the Board to decide the question, and stay all proceedings, including the hearing in this case pending the outcome of the Board's decision.

Respectfully Submitted,

Martin Akerman, Pro Se

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	MOTION FOR CERTIFICATION OF INTERLOCUTORY APPEAL	e-Appeal / e-Mail
Jenny Lin Naylor Agency Representative	MOTION FOR CERTIFICATION OF INTERLOCUTORY APPEAL	e-Appeal / e-Mail