

**MARTIN AKERMAN v. DEPARTMENT OF THE ARMY**

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

**Reply to Response from NGB**

**Summary Page**

**Case Title :** MARTIN AKERMAN v. DEPARTMENT OF THE ARMY

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

**Pleading Title :** Reply to Response from NGB

**Filer's Name :** Martin Akerman

**Filer's Pleading Role :** Appellant

**Details about the supporting documentation**

N/A

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MARTIN AKERMAN v. DEPARTMENT OF THE ARMY

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

Reply to Response from NGB

Online Interview

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

See attached pleading text document

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

Yes

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

Yes

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

MARTIN AKERMAN,  
Appellant,  
V.  
DEPARTMENT OF THE ARMY,  
Agency.

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

DATE: June 11, 2023

**REPLY TO NGB RESPONSE**

**ISSUES OF MATERIAL FACT ON PAGE 2**

Employment Details: The Respondent correctly states that I started my employment as an IT Specialist (Policy and Planning/Data Management), GS-2210-15, with the National Guard Bureau (NGB) at the Army National Guard Readiness Center in Arlington, Virginia, on September 12, 2021. However, it's important to note that on December 20, 2021, General Hokanson officially appointed me Chief Data Officer of the National Guard pursuant to 44 U.S.C. 3520. (Exhibit A)

Position Description and Security Clearance: The characterization of my position as a "Tier 5-Special Sensitive, Critical Sensitive, Noncritical Sensitive, and High Risk" is accurate. It indeed requires a Top Secret security clearance as a condition of employment. But, it is essential to understand that the condition of employment was "obtain **and** maintain" (emphasis added). (Exhibit B)

DoD CAF Preliminary Decision: The statement about the DoD CAF issuing a preliminary decision to revoke my eligibility for access to classified information and assignment to duties designated as national security sensitive on August 12, 2021, is a misrepresentation of the facts

because OSC witnessed the fraudulent claim dating back to the Air Force on August 17, 2021, during an informal ADR process. (Exhibit C)

Access Suspension: The Respondent has correctly stated that documents show my access to classified information and systems was formally and temporarily suspended on February 8, 2022, based on the information provided by the ARMY. However, it's crucial to clarify that my Security Clearance was never actually suspended, based on information from the DoD CAF. This matter is before MSPB in another case. This case should focus only on due process or joinder the other PPD-19 appeal. (Exhibit D)

### **ISSUES OF MATERIAL FACT ON PAGE 3**

Notification of Access Suspension: It's true that on February 14, 2022, my supervisor notified me that my access to classified information and systems had been suspended. However, I would like to clarify that this matter is before the Fourth Circuit on appeal. The scope of this case is a USERRA claim for retaliation. The retaliation being the denial of Workman's Compensation and Disability Retirement, where I am able to prove unlawful interference or harmful procedural error. A similar claim for Privacy Violations is before the Fourth Circuit, where the Department of the ARMY lied, and released sensitive, and privileged medical information, to the Virginia Unemployment Office during the verification process. (Exhibit E)

### **DEMAND FOR OSC REPRESENTATION**

Upon meeting with Arlington County's mental health team on Friday, June 9, 2023, I humbly request that I not be required to revisit the cruel and unusual punishment I suffered without the

help of an attorney. The NGB document is replete with lies and appears to be designed to distract and introduce false statements, requiring me to answer claims that are false and do not matter. Instead, the AJ should consider sanctions on opposing counsel for knowingly lying to the court. The correct response should be coming from the ARMY, as the agency, and be limited to the claims before the Board in this appeal. I should not be required to continue to respond to deliberate erroneous claims, as evidenced by the evidence presented itself. OSC-appointed counsel is required and will be in the interest of justice and efficiency.

### **CONCLUSION AND RELIEF**

1. I, the Appellant/Petitioner, respectfully request the court to rule in my favor. In particular, I seek Declaratory Relief directed towards the Office of Workman's Compensation Programs and the Office of Personnel Management (OPM), with the intention of providing a timely and effective remedy to mitigate the ongoing damages. While this court might not be in a position to award compensatory and punitive damages in the present case, I urge the court to grant any other relief it deems fair and appropriate in view of the facts and substantive legal arguments presented herein.
2. Justice requires the proper joinder of all parties subject to the proceedings. The appellant is willing to allow, and humbly requests, additional time to allow the Department of the Army to review the docket and submit their response, followed by sufficient time for the appellant to submit his, for a total of 14 days.
3. In light of the compelling evidence and substantive legal arguments presented, I, Mr. Akerman, respectfully implore this esteemed Board to issue a cease and desist order. This order is sought to prevent any further retaliatory or discriminatory actions against me.

Additionally, I request a formal declaration confirming the violation of my rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the corresponding provisions of 5 U.S.C.

4. In conjunction with these measures, I seek a directive mandating the correction of agency records to accurately reflect the nature of my involuntary disability retirement, and to expunge any negative references associated with this grievance. In recognition of the substantial legal efforts invested in this case, I request an award of attorney's fees, litigation costs, and other related expenses, as provided under 5 U.S.C. § 7701(g). This should include costs both incurred and anticipated in the pursuit of this and related appeals.
5. In conclusion, I implore the Board to consider any other relief that, in its esteemed judgment, it deems to be just, proper, and equitable under the circumstances. This should be done with care to avoid any potential for a double recovery by factoring in remedies currently being pursued in other proceedings. It is with the utmost respect and faith in this court's pursuit of justice that I make these requests, confident in the understanding that the court will ensure that fairness and justice prevail.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be 'Martin Akerman', written over a horizontal line.

Martin Akerman, Pro Se

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

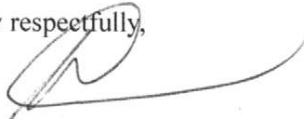
General Hokanson,

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

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

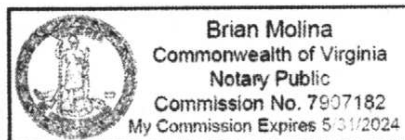
CC: Dr. Clark Cully, Acting Chief Data Officer, Department of Defense  
Honorable Christine Wormuth, Secretary of the Army  
Honorable Frank Kendall, Secretary of the Air Force  
Maj. Gen. Janson Boyles, Mississippi, Chairman, NGAUS  
Governor Asa Hutchinson, Arkansas, Chairman, National Governors Association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

<sup>1</sup> 44 U.S. Code § 3520

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

<sup>3</sup> 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

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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

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##### 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

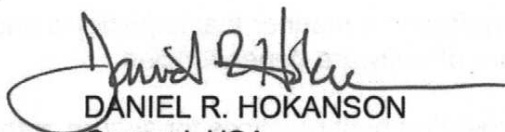
**DEC 20 2021**

**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.



# U.S. MERIT SYSTEMS PROTECTION BOARD

Office of the Clerk of the Board

1615 M Street, N.W.  
Washington, D.C. 20419-0002

Phone: 202-653-7200; Fax: 202-653-7130; E-Mail: [mspb@mspb.gov](mailto:mspb@mspb.gov)

**May 19, 2023**

Notice to:

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

Re: Martin Akerman v. Department of Defense  
MSPB Docket Number: DC-3443-22-0639-I-1

The Board acknowledges your filing dated May 18, 2023 in which you request leave to file an additional pleading. The Board's regulations do not provide for pleadings other than a petition for review, a cross petition for review, a response to the petition for review or cross petition for review, and a reply to a response to a petition for review. 5 C.F.R. § 1201.114(a)(5). A description of these pleadings and the time limits for filing them are set forth in the Board's regulations. 5 C.F.R. § 1201.114(a), (e). For the Board to consider a party's pleading, other than one of those set forth above, the party must describe the nature and need for the pleading. 5 C.F.R. § 1201.114(a)(5). If a party wishes to submit a pleading after the record has closed, the party must also show that the evidence was not readily available before the record closed. 5 C.F.R. § 1201.114(a)(5), (k).

You will be informed at a later date of the Board's decision to grant or deny your request.\* If the Board grants your request, you will be given 10 days in which to submit your additional pleading to the Board. For more information about the Board's petition for review process, please review the Board's regulations at 5 C.F.R. § 1201.114 - 1201.120.

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\* Your request indicates that you have attached "new evidence"; however, no evidence is attached, aside of an included link. Because the requested new evidence should not be attached to a motion for leave, we have accepted the motion for leave and placed it in the record. You should not provide the evidence you are requesting to submit unless your motion for leave is granted. Additionally, the Board has received no notice of intervention from the Office of Special Counsel in this matter. Lastly, your previous motion for leave, submitted on March 23, 2023, remains pending before the Board.

Jennifer Everling  
Acting Clerk of the Board

/s/

---

Dinh Chung  
Case Management Specialist

## CERTIFICATE OF SERVICE

I certify that the attached Document(s) was (were) sent as indicated this day to each of the following:

### Appellant

Electronic Mail      Martin Akerman  
2001 North Adams Street  
Unit 440  
Arlington, VA 22201

### Agency Representative

Electronic Mail      William R. Kraus  
Department of Defense  
Office of the General Counsel  
4800 Mark Center Drive, Suite 15K26  
Alexandria, VA 22350-500

May 19, 2023

(Date)

/s/

Dinh Chung  
Case Management Specialist



FILED: January 17, 2023

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 22-2066 (L)  
(1:22-cv-00696-LMB-WEF)

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MARTIN AKERMAN

Plaintiff - Appellant

v.

LLOYD J. AUSTIN, III, Secretary of Department of Defense; CHRISTINE E. WORMUTH, Secretary of the Army; FRANK KENDALL, Secretary of the Air Force; GENERAL DANIEL R. HOKANSON, Chief, National Guard Bureau; DEPARTMENT OF DEFENSE; DEPARTMENT OF THE ARMY; DEPARTMENT OF THE AIR FORCE; DEFENSE COUNTERINTELLIGENCE AND SECURITY AGENCY

Defendants – Appellees

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No. 22-2147  
(1:22-cv-00696-LMB-WEF)

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MARTIN AKERMAN

Plaintiff - Appellant

v.

LLOYD J. AUSTIN, III, Secretary of Department of Defense; CHRISTINE E. WORMUTH, Secretary of the Army; FRANK KENDALL, Secretary of the Air Force; GENERAL DANIEL R. HOKANSON, Chief, National Guard Bureau;

DEPARTMENT OF DEFENSE; DEPARTMENT OF THE ARMY;  
DEPARTMENT OF THE AIR FORCE; DEFENSE COUNTERINTELLIGENCE  
AND SECURITY AGENCY

Defendants – Appellees

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No. 22-2154  
(1:22-cv-01258-LMB-WEF)

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MARTIN AKERMAN

Plaintiff - Appellant

v.

GENERAL DANIEL R. HOKANSON, General, Chief, National Guard Bureau;  
CHRISTINE E. WORMUTH, Secretary of the Department of the Army; FRANK  
KENDALL, Secretary of the Department of the Air Force; LLOYD J. AUSTIN,  
III, Secretary of the Department of Defense; PENTAGON; ANDREWS AFB;  
REMOTE

Defendants – Appellees

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O R D E R

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The court consolidates Case Nos. 22-2066, 22-2147, and No. 22-2154.

For the Court--By Direction

/s/ Patricia S. Connor, Clerk

## **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	Reply to Response from NGB	e-Appeal / e-Mail
Jenny Lin Naylor Agency Representative	Reply to Response from NGB	e-Appeal / e-Mail