

MARTIN AKERMAN v. DEPARTMENT OF THE ARMY

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

Motion for Extension and Attorney Representation

Summary Page

Case Title : MARTIN AKERMAN v. DEPARTMENT OF THE ARMY

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

Pleading Title : Motion for Extension and Attorney Representation

Filer's Name : Martin Akerman

Filer's Pleading Role : Appellant

Details about the supporting documentation

#	Title/ Description	Mode of Delivery
1	Virginia Certificate of Disability	Uploaded
2	False Imprisonment	Uploaded

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Motion for Extension and Attorney Representation

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.

I am writing to request an extension of time to respond to the Orders issued by the MSPB on 3 May 2023, due to my PTSD disability. As you are aware, PTSD is a serious condition that can affect a person's ability to function and respond to obligations in a timely manner. I am currently receiving treatment for this condition and believe that an extension of 60 days would allow me to better prepare and respond to the Orders. Additionally, I am unable to afford an attorney and request that the MSPB appoint an attorney to represent me in my case. I believe that having legal representation is essential to ensure that my rights are protected and that I receive a fair and just resolution to my case. Thank you for your attention to this matter. Please let me know if you require any additional information or documentation.

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



COMMONWEALTH OF VIRGINIA
DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

KATHRYN A. HAYFIELD
Commissioner

8004 Franklin Farms Drive
Henrico, VA 23229

Office (804) 662-7000
Toll free (800) 552-5019
TTY Toll free (800) 464-9950
Fax (804) 662-7644

December 6, 2022

To Whom It May Concern:

This letter serves as certification that Martin Akerman is an individual with a documented disability as determined by the Virginia Department for Aging and Rehabilitative Services. This individual may be considered for employment under the Commonwealth of Virginia's Alternative Hiring Process.

Sincerely,

Kate Kaegi

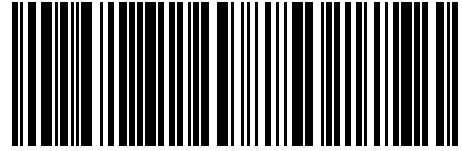
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Phone: 804-241-7936
8004 Franklin Farms Dr.
Richmond, VA 23229
Kate.kaegi@dars.virginia.gov

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

0007789153000070

Clerk's Office
Supreme Court of Nevada
201 South Carson Street, Suite 201
Carson City, NV 89701



USPS CERTIFIED MAIL**9214 8901 4298 0482 5602 08**

010800000491801



See Important Information Enclosed

IN THE SUPREME COURT OF THE STATE OF NEVADA

Martin Akerman, Pro Se,)	Case No. 86458
Petitioner, Pro Per)	
)	
v.)	
)	
Gen. Ondra L. Berry,)	Video Participation
Adjutant General of the Nevada National Guard,)	Requested
et. al.,)	
Respondents.)	
)	

MOTION FOR AN EMERGENCY WRIT OF REPLEVIN

1. The Petitioner respectfully requests that the court grant declaratory relief in the form of a judgment declaring that his personal property was wrongfully subject to civil forfeiture without due process, in violation of his Eighth Amendment rights. Additionally, the Petitioner requests a judgment declaring that his detention and imprisonment were unlawful on the grounds of false arrest, false imprisonment, and procedural and constitutional rights violations. Furthermore, the Petitioner's property rights to his tenured position included procedural safeguards, which were allegedly violated in order to justify the civil forfeiture. New evidence has emerged suggesting that the Nevada Air National Guard Officer may have been framed for the illegal treatment of the Petitioner, casting doubt on the legitimacy of both the civil forfeiture and the detention. The court must consider both the motion for the emergency writ of replevin and the habeas corpus petition in tandem to determine the appropriate relief for the Petitioner.

2. Issue: Whether the writ of replevin and the petition for writ of habeas corpus are inextricably intertwined in the context of the Petitioner's case and whether the civil forfeiture associated with the writ of replevin constitutes an Eighth Amendment violation.

3. Rule: A writ of replevin is a legal remedy to recover personal property that has been wrongfully taken or withheld, whereas a writ of habeas corpus is a legal remedy to challenge the legality of one's detention or imprisonment. The two remedies, while distinct, can become intertwined when the subject matter of the replevin claim is directly related to the grounds of the habeas corpus petition. Additionally, civil forfeiture can violate the Eighth Amendment's prohibition against excessive fines if the forfeiture is grossly disproportional to the gravity of the offense (*Austin v. United States*, 509 U.S. 602, 622 (1993)).

4. Application: In the present case, the Petitioner seeks a writ of replevin to recover his property, which was allegedly subject to civil forfeiture without due process, under 5 U.S.C. 7513. Simultaneously, the Petitioner has filed a petition for writ of habeas corpus, challenging the legality of his detention and imprisonment based on false arrest, false imprisonment, and violation of his procedural and constitutional rights.

5. In this context, the writ of replevin and the petition for writ of habeas corpus are inextricably intertwined because the Petitioner's claims of due process violations in both remedies stem from the same set of circumstances. The wrongful seizure of his property and his unlawful detention are both alleged to have resulted from the same actions taken by the Respondents. Therefore, the success of the Petitioner's writ of replevin may depend on the outcome of his habeas corpus petition, as a finding that his detention was unlawful could impact the validity of the associated civil forfeiture.

6. Furthermore, the Petitioner contends that the civil forfeiture of his property constitutes an Eighth Amendment violation, as the forfeiture is grossly disproportional to the gravity of the [undisclosed and untried] offense. Citing *Austin v. United States*, the Petitioner asserts that the excessive fines clause applies to the civil forfeiture in his case (509 U.S. at 622).

7. Conclusion: The Petitioner's motion for an emergency writ of replevin and his petition for writ of habeas corpus are inextricably intertwined because they both involve claims of due process violations arising from the same set of circumstances. The success of one remedy may have a direct impact on the other, making it essential for the court to consider both claims in tandem when determining the appropriate relief for the Petitioner. Additionally, the civil forfeiture in question may violate the Eighth Amendment's prohibition against excessive fines, further supporting the need for judicial review.

8. Remedy: If the court finds that the Petitioner's rights were violated, the appropriate declaratory relief would include the following:

- a. A declaration that the civil forfeiture of the Petitioner's personal property was unlawful and in violation of his Eighth Amendment rights, as well as any applicable statutory or procedural requirements.
- b. A declaration that the Petitioner's detention and imprisonment were unlawful on the grounds of false arrest, false imprisonment, and procedural and constitutional rights violations.

9. This declaratory relief would provide the Petitioner with an official recognition of the violations of his rights and could serve as a basis for further actions to remedy the situation, such as seeking the return of his property or pursuing damages for the violations. By granting declaratory relief, the court would address the inextricable link between the wrongful civil forfeiture and the unlawful detention, ensuring that the Petitioner's constitutional rights are protected.

New Evidence Attached

10. The court may find that General Garduno, the Nevada Air National Guard Officer, was framed for the illegal confinement of the Petitioner, based on new signed testimony received from the Department of the Army. The evidence shows that one William Poppler may have put General Garduno's name in place of his own, to commit these atrocities upon the Plaintiff.

11. If the court finds that the Nevada Air National Guard Officer was indeed framed, and that William Poppler was the true perpetrator of the illegal actions against the Petitioner, this new evidence could have a significant impact on both the declaratory relief sought, and the habeas corpus petition, in Nevada. These additional allegations warrant discovery to establish facts and reduce the daylight between controversies.

CLOSING CERTIFICATION

I certify to the best of my knowledge, information, and belief that this motion: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; and (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

Respectfully Submitted,

Signature of Pro Per Petitioner: _____

Martin Akerman


 2001 North Adams Street Unit 440
 Arlington, VA 22201
 (202) 656-5601

CERTIFICATE OF SERVICE BY MAIL

I, Martin Akerman, hereby certify, pursuant to N.R.C.P. 5(b), that on this 2nd day of the month of May of the year 2023, I mailed a true and correct copy of the foregoing MOTION FOR AN EMERGENCY WRIT OF REPLEVIN addressed to:

Federal Copies:

United States Attorney for the Eastern
District of Virginia
2100 Jamieson Avenue
Alexandria VA 22314


United States Court of Appeals
4th Circuit Clerk
1100 East Main Street, Suite 501
Richmond VA 23219

General Counsel
National Guard Bureau
1636 Defense Pentagon, STE 1E169
Washington DC 20301

Respondent Official:

Gen. Ondra L. Berry
STATE OF NEVADA OFFICE OF THE MILITARY
2460 FAIRVIEW DRIVE
Carson City NV 89701

Nevada Attorney General
Heroes' Memorial Building
Capitol Complex
Carson City, Nevada 89710

Signature of Pro Per Petitioner:  ***
Martin Akerman 2001 North Adams Street Unit 440
Arlington, VA 22201
(202) 656-5601



DEPUTY CHIEF OF STAFF, G1
CIVILIAN HUMAN RESOURCES AGENCY (CHRA)
CONSOLIDATED SERVICES DIVISION
ARMY BENEFITS CENTER - CIVILIAN

FORT RILEY, KS 66442-5004
EMCHW6D5AACSDABC

April 25, 2023

SUBJECT: Agency Challenge Letter

Claim # 550313053
DOI 4/05/2022

Office of Workers' Compensation Programs
PO BOX 8300
London, KY 40742-8300

Dear Claims Examiner,

The Army Benefits Center-Civilian, Injury Compensation Center of Excellence (ABC-C, ICCoE) is responding to claimant challenges for claimant Martian Akerman. This challenge letter is to address the Employing Agency Status being a sub command under Dept. of Army. There have been numerous challenges from the claimant stating that they are not with Dept. of Army but are under Dept. of Defense. When in fact National Guard Bureau Joint Staff is composed of Army & Air National Guard Personal, as well as Navy & Marine Corps Force. To a certain aspect Dept. of Army, Navy, Air Force, Marines are all under Dept. of Defense, however the claimant was apart of a sub command under Dept. of Army while in employed with National Guard Bureau (Title V) under command code 3892. In which the Army Benefits Center - Civilian has benefits guidance for OWCP.

The Position Description that was provided to Dept. of Labor states that the command code for the employing agency is: GB US Army National Guard Bureau (ARGB) this document has also been provided to Dept. of Labor. The position description also listed the supervisor for the claimant as Kenneth McNeil/ Chief Information Director for National Guard Joint Staff - J6, who is also an employee of Dept. of Army.

The Employing Agency has also provided SF-50s which states in Block 14 that the claimant was employed with National Guard Bureau Joint Staff, NGB - J6, C4 Systems & CIO Directorate in Arlington VA as IT Specialist GS 15 Step 10. In which the claimant was Suspended Indefinite with effective date of 4/24/2022. When the claimant resign from their position on 6/6/2022 they were also employed with National Guard Bureau Joint Staff.

Additional documentation has also been provided to Dept. of Labor:

- ❖ National Guard Bureau dated 14 February 2022 the proposed INDEFINITE SUSPENSION MEMO, where it is listed that claimant refused to sign.
- ❖ The Deputy Director of NGB Marin Rudy who signed the CA-2 Form on 01 DEC 2022 is also an employee of Dept. of Army.



DEPUTY CHIEF OF STAFF, G1
CIVILIAN HUMAN RESOURCES AGENCY (CHRA)
CONSOLIDATED SERVICES DIVISION
ARMY BENEFITS CENTER - CIVILIAN

FORT RILEY, KS 66442-5004
EMCHW6D5AACSDABC

- ❖ The claimant has provided MSPB Appeal Form to Dept. of Labor on 05 DEC 2022 in which in Block 5 is listed Dept. of Army Joint Activities. The claimant also listed in the appeal that "Mr. McNeil as their Senior Leader".
 - The claimant also provided email traffic from COL. Basler & William Poppler(Army National Guard Labor -Management/Employee Relations Specialist/LMER) on April 18, 2022 concerning speaking with Human Recourse person & it was told to the claimant from their National Guard Bureau LMER that all of their benefits is conducted by the Army Benefits Center – Civilian.
 - The claimant email address while they were an employee of the Employing Agency was martin.akerman.civ@army.mil.
 - The claimant has provided Dept. of Labor their Time & Attendance Report on 12/06/2022 which has their UIC as W39LAA which is assign to Dept. of Army, Army National Guard.

The claimant received and unfavorable Information for Security Determination under Dept. of Army Form 5248-R on 8 February 2022 & failure to meet condition of employment under AR 600-20, Army Command Policy which was sign by Mr. McNeil & Mr. Poppler on 11 April 2022 placing the claimant in an indefinite suspension without pay or duty status effective 24 April 2022 until the claimant obtain/regain an active Top Secret Clearance or until the Agency is warranted up to & including removal from Federal service, however the claimant resign from their federal position with the Army National Guard Bureau effective June 6, 2022 every document that has been provided from the Employing Agency is all from Dept. of Army, Army National Guard Burea(Title V), Agency Code - 3892 which is all correct information for this claimant.

If you have any questions concerning this request, please contact ABCC at 1-866-792-7620 Option #1. Monday through Thursday 8:00 am until 4:00 pm CST.
Email: john.a.burgess40.civ@army.mil

Sincerely,

//SIGNED//

John A. Burgess

Injury Compensation Program Admin.

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 Extension and Attorney Representation	e-Appeal / e-Mail
Eugene R. Ingrao, Sr. Agency Representative	Motion for Extension and Attorney Representation	e-Appeal / e-Mail