

MARTIN AKERMAN v. DEPARTMENT OF THE ARMY
Docket # DC-0752-23-0457-I-1
Request for Clarification and Balance Test Restatement (Twiqbal)
Summary Page

Case Title : MARTIN AKERMAN v. DEPARTMENT OF THE ARMY

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

Pleading Title : Request for Clarification and Balance Test Restatement (Twiqbal)

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?

Enter Online

2. Please enter text of your pleading.

MOTION FOR CLARIFICATION I, Martin Akerman, hereby respectfully submit this motion for clarification, aiming to ensure a comprehensive understanding of the complex intricacies of my case and to guarantee a fair and just processing of my appeals. Primarily, I seek the Board's guidance on the jurisdictional purview of my case, which encompasses exhausted claims that reside outside the administrative machinery, specifically in the Fourth Circuit, a retirement blockage, an unresponsive Department of Labor's Veterans Employment and Training Service (DOL-VETS), and an ongoing USERRA mixed case appeal. All these matters fall within the statutory and regulatory jurisdiction of the MSPB as I understand it. I would greatly appreciate it if the Board could elucidate on how it views cases where retirement is revealed to be coerced, effectively constituting a constructive removal. Moreover, I am keen to learn how the Board approaches cases with overlapping jurisdictions, particularly where evidence points to multiple possible perpetrators across different institutions, as is the case here involving the Army, the National Guard Bureau, and the Nevada Air National Guard. Furthermore, I wish to draw attention to the cases currently before the Fourth Circuit. According to my interpretation of 5 U.S.C. Â§ 7702(e)(1)(B), as the 120-day timeline for some of the dockets elapsed on June 28, 2022, this delay permits the initiation of a judicial review of the entire mixed-case action, as confirmed by *Perry v. MSPB*, U.S. 137 S. Ct. 1975, 1981 n.2, 198 L.Ed.2d 527 (2017). I am eager to understand the implications this delay might have on my case, particularly in light of the fact that these claims have been presented to the MSPB. In addition, the doctrine of collateral estoppel merits consideration. As set forth in *McNeil v. DOD*, 100 M.S.P.R. 146, 152 (M.S.P.B. September 6, 2005), collateral estoppel, or issue preclusion, is applicable when certain criteria are met. It becomes apparent that the cases currently before the Fourth Circuit do not qualify for collateral estoppel consideration, as they do not meet these criteria. I request the Board's confirmation on this interpretation, ensuring that each case is evaluated on its unique merits and context. Finally, I would also like to request that the Board revisit Docket # DC-3443-22-0639-I-1 in light of new evidence that has emerged, which has the potential to significantly alter the course of the case. I trust the Board will provide the necessary guidance and take into account these points of contention as it reviews my case, thus ensuring a fair and just resolution. Thank you for your time and consideration. Sincerely, Martin Akerman

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

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	Request for Clarification and Balance Test Restatement (Twiqbal)	e-Appeal / e-Mail
Jenny Lin Naylor Agency Representative	Request for Clarification and Balance Test Restatement (Twiqbal)	e-Appeal / e-Mail