

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

**Docket # DC-1221-22-0257-S-1**

**Petition for Review**

**Summary Page**

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

**Docket Number :** DC-1221-22-0257-S-1

**Pleading Title :** Petition for Review

**Filer's Name :** Martin Akerman

**Filer's Pleading Role :** Appellant

**Details about the supporting documentation**

#	Title/ Description	Mode of Delivery
1	Pleading 2 - SF-50	Uploaded
2	Pleading 3 - CNGB Appointment and USAJOBS	Uploaded

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MARTIN AKERMAN v. DEPARTMENT OF THE ARMY

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Petition for Review

Online Interview

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

Enter Online

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2. Do you want to enter the text in a free form manner or through a guided interview?

Guided

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3. Have you been denied any procedures during your appeal to the MSPB to which you believe you were entitled? Examples of procedures include holding a hearing, submitting evidence, and calling witnesses.

Yes

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4. What procedures were denied and why do you believe you were entitled to them? Did you raise this matter with the judge? Please describe how not having this procedure has harmed you.

I was not afforded the hearing requested.

Harmful error - my appeal was not of the unappealable Proposed Notice but of the inextricably merged combination of the appealable Notice of Suspension of Access created without affording me due process and the Proposed Notice of Suspension as they were issued in one binder, on 14 February 2022.

The decision to suspend my security clearance was both proposed and decided by an unauthorized person, in an agency for which I do not work, and within minutes of one another. As evidenced in Enclosures 5&6.

Additionally, the record shows that the procedural error was likely to have caused the agency to reach a conclusion different from the one it would have reached in the absence or cure of the error. The violation of my right to due process is unlawful in its entirety. As evidenced in the Proposed Notice and its Enclosures.

New and material evidence or legal argument is available that, despite my due diligence, was not available when the record closed. OSC is investigating a Systemic Issue in the Security Clearance process across the Department of Defense under OSC File No. DI-22-000340. Additionally, recent discussion with Mr. Berglund now claims that there are multiple reasons for suspending my clearance - again a violation of my right to due process.

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5. Do you have any documents or evidence that are important to your appeal that were not filed with the judge before the record closed? If so, you should attach these documents and evidence. (You will be given an opportunity to upload any evidence that you have in electronic form. If you have paper documents you will be given the opportunity to submit them by mail, fax or by personal or commercial delivery)

Yes

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6. Explain why you did not submit these documents or evidence to the judge, and why it is important for the board to consider them. Explain why you believe that these documents and evidence you should change the result in your case. (The Board will not normally consider documents or evidence which were not submitted to the judge unless you can show that the evidence did not exist before the record closed or that you could not have been reasonably expected to have found the evidence before the record is closed)

These were sent in my pleadings but not included in the judge's decision.

Consideration of these will help the judge make a most-informed decision.

I was told by the clerk of the Board to not overload the inbox with attachments and that I would be given a chance to add documents in preparation for the hearing.

7. Did the initial or addendum decision incorrectly decide any important facts or fail to consider any important facts that were presented to the judge?

Yes

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8. Describe what important facts were incorrectly decided or were not considered. Explain why that should change the result in your case.

I requested that we find a way to include the ARMY, AIR FORCE, Joint Staff, DOD, and NSA so that all parties share in the costs of the remedy being sought in this Appeal - remain on paid status until the DOD OIG completes investigation. The Army challenged my request for a "joinder"

My appeal did not ask the Board to review the merits of the decision to revoke my security clearance. My appeal calls on the Board to ensure that I am afforded procedural rights with respect to adverse actions and that I am not subjected to harmful procedural error pending the agency's redetermination of the appropriate penalty through the proper procedures.

I am appealing the procedural violations and looming constructive discharge created by the inextricable retaliatory nexus evidenced by the Proposed Notice of Indefinite Suspension (the document which calls for a suspension without pay), and Suspension of Access for Cause (Exhibit A, Enclosure 5), which were both issued to me at the same time and in the same meeting on 14 February 2022. These both are being brought forward for consideration under 2302(b)(8) and/or 2302(b)(9). This is not an IRA appeal.

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9. Did the initial or addendum decision apply the wrong law or apply the law incorrectly?

Yes

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10. What law should be applied and how? For example, did the decision fail to properly consider a specific law or regulation or another case that has been decided by a court or by the board? Your explanation should refer to a law, regulation or case. Explain how application of the right law should change the result in your case.

The Order states that the appellant filed a Board appeal seeking a stay of the agency's proposal to indefinitely suspend him.

I filed an appeal for remedies due to a violation of my right to due process. I did not ask for a stay in this appeal.

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11. Are there other reasons why the initial or addendum decision was wrong?

Yes

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12. What are those reasons?

I did not apply to nor transfer to a job in the Army National Guard, my job is with the Chief of the National Guard Bureau, as highlighted in my pleadings and SF-50.

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13. What action (relief or remedy) do you want the Merit Systems Protection Board to order in this case? Why do you believe that you are entitled to this relief or remedy?

As requested in my initial appeal, I am asking to be kept on a paid status until the OIG is able to complete their investigation of violations not covered under OSC (Namely PPD-19 or 50 USC 3341 j - (j)Retaliatory revocation of security clearances and access determinations, as implemented and enforced in the Department of Defense).

I found out today that OSC will also be investigating my case for systemic issues related to due process and fraud across the entire Department of Defense.

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

Yes

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

Yes

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4 March 2022

Martin Akerman  
202-656-5601

PLEADING

Honorable Judge Mehring,

I received notification last night that the Responding Agency was switched to the DEPARTMENT OF THE ARMY from my original Appeal Respondent of DEPARTMENT OF DEFENSE. I kindly request that we find a way to include the ARMY, AIR FORCE, Joint Staff, DOD, and NSA so that all parties share in the costs of the remedy being sought in this Appeal - remain on paid status until the DOD OIG completes investigation.

My letter does not ask the Board to review the merits of the decision to revoke my security clearance. This appeal calls on the Board to ensure that I am afforded procedural rights with respect to adverse actions and that I am not subjected to harmful procedural error pending the agency's redetermination of the appropriate penalty through the proper procedures.

I am appealing the procedural violations and looming constructive discharge created by the inextricable retaliatory nexus evidenced by the Proposed Notice of Indefinite Suspension (the document which calls for a suspension without pay), and Suspension of Access for Cause (Exhibit A, Enclosure 5), which were both issued to me at the same time and in the same meeting on 14 February 2022. These both are being brought forward for consideration under 2302(b)(8) and/or 2302(b)(9). This is not an IRA appeal.

It is important to note that I have a procedural right to the security access in question under DODM 5200.02: Section 9.4. SUSPENSION OF NATIONAL SECURITY ELIGIBILITY OR ACCESS and I am entitled to procedural due process under the Fifth Amendment of the U.S. Constitution.

Careful not to overload the inbox with attachments, please let me know if I may submit PROOF OF CLAIM and REQUIRED SUBMISSIONS in support of 2302(b)(8) and 2302(b)(9) and the many Respondents instead of the Requirements outlined in your Order when this was interpreted to be an IRA Appeal. Only attaching my SF-50 for now.

Thank you for your consideration.

Very respectfully,

  
Martin Akerman



5-Part 50-316

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

**Docket # DC-1221-22-0257-W-1**

**Request for Clarification**

**Summary Page**

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**Filer's Name :** Martin Akerman

**Filer's Pleading Role :** Appellant

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1	CNGB CDO Appointment 2021-12-20	Uploaded
2	Job Posting	Uploaded

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Request for Clarification

Online Interview

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

Enter Online

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2. Please enter text of your pleading.

Kindly requesting all documents related to the recent claim that I work for LT GEN Jensen in the Army National Guard (ARMY) and not GEN Hokanson in the National Guard Bureau (Joint Staff).  
Job announcement number NCHT21080620221

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

Yes

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

Yes

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## NATIONAL GUARD BUREAU

1636 DEFENSE PENTAGON  
WASHINGTON DC 20301-1636

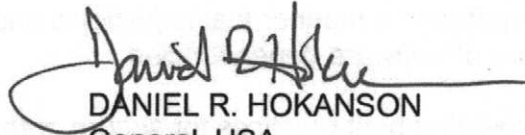
DEC 20 2021

### 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.

**announcement number**

**T21080620221**

**ry Range**

**,128.00 to \$172,500.00 per year**

## **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	e-Appeal / e-Mail
Bernard E. Doyle Agency Representative	Request for Clarification	e-Appeal / e-Mail



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