

No. 23-1106

In The
Supreme Court of the United States

MARTIN AKERMAN, PRO SE,

Petitioner,

v.

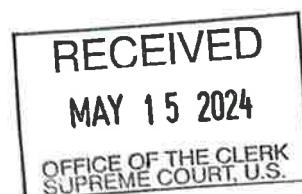
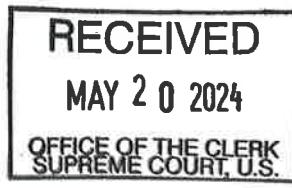
POSSE COMITATUS OF THE
UNITED STATES OF AMERICA,

Respondent.

On Petition For a Writ of Certiorari
to the United States Court of Appeals
for the Armed Forces

PETITION FOR A REHEARING

MARTIN AKERMAN, Petitioner, Pro Se
2001 North Adams Street, Unit 440
Arlington, VA 22201
(202) 656 - 5601



QUESTION PRESENTED

Given the historical evolution of legal safeguards, specifically the writ of habeas corpus as a fundamental right established in the Magna Carta and later affirmed in Article 1, Section 9, Clause 2 of the U.S. Constitution, how does the modern judicial mechanism of the petition for writ of certiorari, particularly its ease of denial, impact the enforcement and protection of these rights in cases where a petitioner is held in a jurisdictional void and the government is not required to respond to allegations or make a court appearance? Further, what are the broader implications for constitutional rights and due process when such petitions are summarily dismissed, reflecting an apparent neglect that may potentially erode the foundational principles of liberty and justice?

PARTIES TO THE PROCEEDING

The petitioner's case emerges, highlighting a modern challenge to this ancient right. The dismissal of the petitioner's habeas corpus request by the United States Court of Appeals for the Armed Forces, for lack of jurisdiction, raises profound questions about the application and reach of this venerable legal remedy in contemporary times.

The petitioner, Martin Akerman, a tenured federal employee, has actively engaged in protected activities under the Uniformed Services Employment and Reemployment Rights Act (USERRA) by participating in an investigation concerning the wellbeing of military members. This engagement was part of his responsibilities as the Chief Data Officer of the National Guard Bureau of the United States, a position he holds, with tenure, under the authority of 44 U.S.C. § 3520. The petitioner has habeas standing under 28 U.S.C. § 2241(c)(1) and 28 U.S.C. § 2241(c)(2).

The respondent, Posse Comitatus of the United States of America, is embodied in this case by Nevada Air National Guard Brigadier General Caesar Garduno. Upon his federalization, General Garduno became subject to the laws and regulations of the Department of the Air Force, which mandate adherence to the principles and statutes that govern the use of military authority in civilian matters.

The crux of this case revolves around General Garduno's role as the Deciding Official in the detention of Mr. Akerman under 5 U.S.C. 6329b(b)(2) and his subsequent suspension without due process, which contravenes statutory protections codified by congress in 5 U.S.C. 7513. These actions raise critical legal questions regarding the potential misuse of military authority in a civilian federal employment context.

This situation is juxtaposed against the foundational legal principles articulated in the Magna Carta, which declares, "nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land." This historical assertion underscores the ongoing relevance of these principles, as they relate to the balance between military and civilian legal frameworks and the protection of individual rights within those contexts.

In accordance with Rule 29.4(a), the Solicitor General of the United States will be duly served, reflecting the direct involvement of the United States Government in the ongoing proceedings.

The involvement of the Committee on Homeland Security and Governmental Affairs and the Committee on Oversight and Government Reform, as mandated by 44 U.S.C. § 3520(f), is essential to ensure that the legislative perspective and related relevant matters are integrated into the Court's deliberation, Rule 37.1.

CERTIFICATE OF GOOD FAITH AND INTERVENING ISSUES

I certify that this petition for rehearing is presented in good faith and not for delay. This petition addresses intervening circumstances of a substantial or controlling effect, specifically the unresolved jurisdictional issues and lack of required government response that were not previously considered. The attached certification bears my signature, affirming that the petition is restricted to the grounds specified in Rule 44.2 and is presented in good faith.

REASONS FOR GRANTING THE PETITION

The petition for rehearing is respectfully submitted to address the critical issues arising from the denial of the original petition for writ of certiorari, where the fundamental legal questions presented were not considered. This denial directly impacts the enforcement of habeas corpus protections and the broader constitutional guarantees intended to shield citizens from arbitrary government actions and judicial neglect.

Jurisdictional and Procedural Concerns:

The denial perpetuates a significant jurisdictional gap, wherein no court claims the authority to review the government's actions against the petitioner, effectively leaving him without a legal remedy or platform for his grievances, contrary to the principles enshrined in the U.S. Constitution and historical precedents supporting the writ of habeas corpus.

Government's Lack of Response:

The absence of a required government response in this case is alarming and undermines the accountability mechanisms that are foundational to our legal system. This lack of accountability is particularly egregious given the severe implications for the petitioner's liberty and constitutional rights.

Constitutional and Human Rights Implications:

This case raises essential questions about the balance between national security measures and individual rights. The unresolved legal questions regarding the suspension of habeas corpus protections and due process rights necessitate a rehearing to ensure that constitutional rights are not unduly compromised.

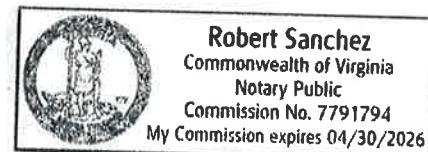
CONCLUSION

For the foregoing reasons and in the interest of justice, this Court should grant the petition for rehearing to consider the vital constitutional questions and ensure proper judicial review of the petitioner's grievances.

Respectfully Submitted Under Oath,


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

County/City of Arlington
 Commonwealth/State of Virginia
 The foregoing instrument was acknowledged
 before me this 13 day of MAY
 2024, by
Martin Akerman
 (name of person seeking acknowledgement)
Robert Sanchez
 Notary Public
 My Commission Expires: 30 April 2026



RULE 33.1 CERTIFICATION

Pursuant to Supreme Court Rule 33.1, this petition has been prepared in a 12-point Century font and set in a booklet format as required by Rule 33.1. This petition adheres to the type-volume limitations of Supreme Court Rule 33.2(b) and contains 804 words, excluding the parts of the petition exempted by Rule 33.2(d). The paper used is white, opaque, unglazed, and not less than 60# in weight, and the text is reproduced with a clarity that equals or exceeds the output of a laser printer. The cover is tan.

40 copies are provided under Rule 44.

Dated and respectfully submitted, this 14th day of May, 2024.



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23-1106

WAIVER OF RULE 38(b) FEE, UNDER 40.3

Pursuant to the United States Supreme Court Rule 40.3, I am proceeding without prepayment of the docketing and other fees, having been granted a waiver of these costs under the provisions of Rule 40.3:

Petitioner filed the 23-1106 petition for a writ of certiorari to review a decision of the United States Court of Appeals for the Armed Forces under 28 U.S.C. § 1259, proceeding without prepayment of fees or costs or furnishing security therefor and without filing an affidavit of indigency.

While allowed to proceed under 40.3, petitioner was not entitled to proceed on papers prepared as required by Rule 33.2, after filing a separate motion under Rule 39.

Dated and respectfully submitted, this 14th day of May, 2024.



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v.

POSSE COMITATUS OF THE
UNITED STATES OF AMERICA,

Respondent.

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of May, 2024, I have duly served the attached petition for rehearing on the Solicitor General of the United States at the Office of the Solicitor General, 950 Pennsylvania Avenue NW, Washington, D.C. 20530-0001, in accordance with Supreme Court Rule 29, via United States Postal Service, priority mail.


Martin Akerman, Pro Se
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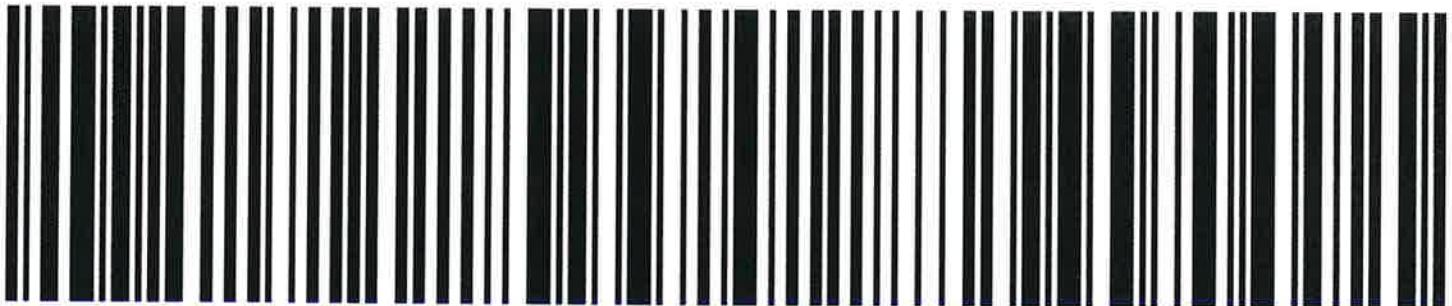
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