

No. 23-7072
(23A489 & 23A536)

IN THE SUPREME COURT OF THE UNITED STATES

MARTIN AKERMAN,
CHIEF DATA OFFICER OF THE NATIONAL GUARD BUREAU, PRO SE,
APPLICANT

v.

GENERAL DANIEL HOKANSON,
CHIEF OF THE NATIONAL GUARD BUREAU, ET AL

PETITION FOR REHEARING

MARTIN AKERMAN, PRO SE
2001 North Adams Street, Unit 440
Arlington, VA 22201
makerman.dod@gmail.com
(202) 656-5601

MAY 15, 2024

QUESTIONS PRESENTED

This case, interwoven with critical constitutional issues and procedural anomalies, merits the Court's reconsideration to rectify the significant judicial oversights and ensure fair adjudication. Drawing inspiration from Alexander Hamilton in Federalist No. 78 and the esteemed Montesquieu, it is imperative to highlight the judiciary's role as the guardian of liberty, distinct and insulated from other governmental powers, to maintain its integrity and the public's trust.

- Should the Supreme Court review the lower court's efforts to shield the federal government from scrutiny for the misuse of state military officers in violation of the Posse Comitatus Act, echoing Alexander Hamilton's concerns about the judiciary's role as a safeguard against the encroachment of the executive branch?
- How should the Court consider the implications of the omission of page 16 during the Clerk's scan of the petition for writ of certiorari in 23-7072, which contained critical arguments challenging the Eastern District of Virginia's sanction of dismissal for lack of jurisdiction, despite the presence of an EEOC right to sue in District Court?
- In light of the United States District Court for the Eastern District of Virginia's refusal to file a Federal Rule of Civil Procedure 60(a) motion to correct procedural discrepancies (modern-day petition for writ of error coram nobis), should the Court intervene to ensure fairness in judicial processes?

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Appendix B: The original page 16 of the petition for writ of certiorari, which contains critical arguments regarding the inappropriate dismissal of my case for lack of jurisdiction, despite the established right to sue provided by the EEOC.

Appendix C: Record of the denied Federal Rule of Civil Procedure 60(a) motion, exemplifying the refusal to correct acknowledged judicial errors, thereby necessitating an intervention similar to a writ of error coram nobis.

Appendix D: National Guard Bureau's Response to Senator Kaine: Features the National Guard Bureau's communication to Senator Tim Kaine, confirming Brigadier General Garduno, of the Nevada Air National Guard, as the deciding official, and referencing jurisdictional responses related to Merit Systems Protection Board proceedings linked to the Supreme Court cases 23A489, 23A536, and 23A701.

GROUND'S FOR GRANTING THE PETITION

This petition rests on the judiciary's indispensable role as the guardian of constitutional boundaries and personal liberties against potential encroachments by the other branches of government. The integrity of judicial proceedings and the fair application of the law to all parties, particularly in cases involving government actions, are paramount. The matters raised herein concern:

Judicial Independence and Accountability:

The alleged misuse of state military officers in roles potentially violating the Posse Comitatus Act, and the lower courts' efforts to shield these actions from scrutiny, touch directly on the separation of powers. This situation echoes Hamilton's concerns about the judiciary's ability to act as a bulwark against the overreach of the executive branch, underscoring the necessity for this Court to reassert its role in maintaining the delicate balance of power envisioned by the framers of our Constitution.

Procedural Integrity and Oversight:

The omission of page 16 during the Clerk's scan of the petition for writ of certiorari in 23-7072, which contained pivotal legal arguments, represents a significant procedural fault that has impeded the fair consideration of my case. This oversight highlights the "natural feebleness" of the judiciary that Hamilton warned about, necessitating vigilant oversight by this Court to prevent individual oppression that may arise from such procedural lapses.

Corrective Action for Judicial Errors:

The refusal by the Eastern District of Virginia to file a Federal Rule of Civil Procedure 60(a) motion to correct known discrepancies illustrates a resistance to self-correction within the judiciary, potentially leading to unjust results. This refusal not only affects the individual case but also sets a concerning precedent that undermines the judiciary's role as the citadel of public justice and security.

Access to Timely Judicial Review for Exhausted Administrative Cases:

Further compounding the issues already presented, the lower courts' decisions have essentially invalidated the statutory right to bring Merit Systems Protection Board (MSPB) matters to district courts. This has a chilling effect on the rights of federal employees to seek redress in a timely and effective manner. The cases listed in the ongoing MSPB proceedings, including DC-0752-22-0376-I-1, DC-1221-22-0445-W-1, DC-1221-22-0459-W-1, and DC-1221-22-0257-W-1, demonstrate substantial administrative delays and a failure of the "administrative machinery" to resolve grievances efficiently, *Ikossi v. Dep't of Navy*, 516 F.3d 1037 (2008). Such barriers directly contradict the intent of 5 U.S. Code § 7702(e)(1)(B), which was designed to ensure that federal employees could escalate MSPB disputes to the judicial system when administrative remedies are insufficient or exhausted.

CONCLUSION

It is in the spirit of Hamilton's vision of a robust, fair, and independent judiciary that I request this Court to reconsider its earlier decisions in light of the significant constitutional and procedural issues presented.

CERTIFICATE OF COMPLIANCE

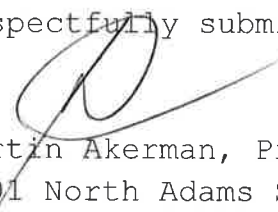
I, Martin Akerman, as the pro se applicant in this case, hereby certify that the attached Petition for Rehearing is presented in good faith and not for purposes of delay. I affirm that the facts and legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law.

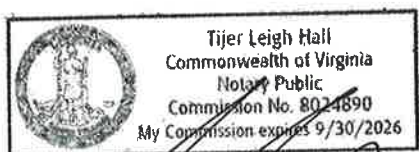
Pursuant to Supreme Court Rule 33.2, I hereby certify that the attached Petition for Rehearing has been prepared in compliance with the formatting requirements set forth in 8½- by 11-inch paper format. The document has been printed on opaque, unglazed, white paper and is stapled at the upper left-hand corner. Ten (10) copies have been provided to the Court, per in forma pauperis rules.

This certificate also confirms that the Petition for Rehearing adheres to the word limit specified under the applicable rules. The word count for the Petition for Rehearing is 450 words, which is less than the 3,000-word limit set for such submissions.

County/City of Arlington, VA
Commonwealth/State of VA
The foregoing instrument was acknowledged
before me this 15th day of May
2024 by Martin Akerman
(name of person seeking acknowledgement)
Notary Public
My Commission Expires: 9/30/2026

Respectfully submitted under oath,


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



Appendix A:

Documentation of the absence of a formal judgment entry in the Eastern District of Virginia's docket, highlighting procedural irregularities that obstruct traditional appellate review.

**U.S. District Court
Eastern District of Virginia – (Alexandria)
CIVIL DOCKET FOR CASE #: 1:22-cv-01258-LMB-WEF**

Akerman v. Hokanson et al
Assigned to: District Judge Leonie M. Brinkema
Referred to: Magistrate Judge William E. Fitzpatrick
Case in other court: 4th Circuit, 22-02154
Cause: 28:1331 Federal Question

Date Filed: 11/04/2022
Date Terminated: 11/07/2022
Jury Demand: Plaintiff
Nature of Suit: 890 Other Statutory
Actions
Jurisdiction: Federal Question

Plaintiff**Martin Akerman**

represented by **Martin Akerman**
2001 North Adam Street
Unit 440
Arlington, VA 22201
202-656-5601
Email: makerman.dod@gmail.com
PRO SE

Defendant

Daniel R. Hokanson
General, Chief, National Guard Bureau

Defendant

Christine E. Wormuth
Secretary of the Department of the Army

Defendant

Frank Kendall
*Secretary of the Department of the Air
Force*

Defendant

Lloyd J. Austin, III
Secretary of the Department of Defense

Defendant**Pentagon****Defendant****Andrews AFB****Defendant****Remote**

Date Filed	#	Docket Text
11/04/2022	<u>1</u>	COMPLAINT against Andrews AFB, Lloyd J. Austin, III, Daniel R. Hokanson, Frank Kendall, Pentagon, Remote, Christine E. Wormuth (Filing fee \$ 402, receipt number 14683097529.), filed by Martin Akerman. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Attachment 1, # <u>3</u> Attachment 2, # <u>4</u> Attachment 3, # <u>5</u> Attachment 4, # <u>6</u> Attachment 5)(dvanm,) (Entered: 11/07/2022)
11/04/2022	<u>2</u>	MOTION for Pro Se E-Noticing by Martin Akerman. (dvanm) (Entered: 11/07/2022)

11/07/2022	<u>3</u>	Filing fee: \$402.00, receipt number 14683097529. (dvanm) (Entered: 11/07/2022)
11/07/2022	<u>4</u>	ORDER granting <u>2</u> Motion for Pro Se E-Noticing. Signed by District Judge Leonie M. Brinkema on 11/7/2022. (dvanm) (Entered: 11/07/2022)
11/07/2022	<u>5</u>	ORDERED that this civil action be and is DISMISSED WITH PREJUDICE as duplicative of Akerman v. Austin, No. 1:22-cv-696; and it is further ORDERED that the Clerk not copy the requested documents and return to Mr. Akerman the \$200.00 copy request fee. For the purpose of maintaining a record, plaintiff's Copy Request Form will be retained by the Clerk's office; and it is further ORDERED that Mr. Akerman is prohibited from filing any new complaint that raises the same issues that were addressed and dismissed in the memorandum opinion issued on November 3, 2022, in Akerman v. Austin, No. 1:22-cv-696 [Dkt. No. 97]. Signed by District Judge Leonie M. Brinkema on 11/7/2022. (dvanm) (Entered: 11/07/2022)
11/07/2022	<u>6</u>	NOTICE OF APPEAL filed by Martin Akerman. Filing fee \$ 505 Receipt # 14683097532. (Attachments: # <u>1</u> Receipt) (nlop) (Entered: 11/09/2022)
11/09/2022	<u>7</u>	Transmission of Notice of Appeal to US Court of Appeals re <u>6</u> Notice of Appeal (All case opening forms, plus the transcript guidelines, may be obtained from the Fourth Circuit's website at www.ca4.uscourts.gov). (nlop) (Entered: 11/09/2022)
11/10/2022	<u>8</u>	USCA Case Number 22-2154 4th Circuit, Case Manager Cathy Poulsen for <u>6</u> Notice of Appeal filed by Martin Akerman. (Dest) (Entered: 11/10/2022)
11/10/2022	<u>9</u>	Letter from the 4th Circuit requesting the transmittal of record re <u>6</u> Notice of Appeal. (Dest) (Entered: 11/10/2022)
11/10/2022		Assembled INITIAL Electronic Record Transmitted to 4CCA re <u>6</u> Notice of Appeal. (Dest) (Entered: 11/10/2022)
07/18/2023	<u>10</u>	MOTION for Certification of Record, filed by Martin Akerman. (Attachments: # <u>1</u> Attachment-1, # <u>2</u> Attachment-2, # <u>3</u> Attachment-3, # <u>4</u> Attachment-4) (Dest) (Entered: 07/19/2023)
07/24/2023	<u>11</u>	ORDERED that the Motion for Certification of Record [Dkt. No 10] be and is DENIED (see Order for further details). Signed by District Judge Leonie M. Brinkema on 7/24/2023. (Sbro) (Entered: 07/24/2023)
10/31/2023	<u>12</u>	ORDER of USCA as to <u>6</u> Notice of Appeal filed by Martin Akerman. The court denies the petition for rehearing and rehearing en banc and all other pending motions. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc. Entered at the direction of the panel: Judge Rushing, Judge Heytens, and Senior Judge Keenan. (swil) (Entered: 10/31/2023)
11/09/2023	<u>13</u>	USCA Mandate re <u>6</u> Notice of Appeal. The judgment of this court, entered August 29, 2023, takes effect today. This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure. (Sbro) (Entered: 11/09/2023)

Appendix B:

The original page 16 of the petition for writ of certiorari, which contains critical arguments regarding the inappropriate dismissal of my case for lack of jurisdiction, despite the established right to sue provided by the EEOC.

Challenges Faced by the Pro Se Plaintiff:

The District Court's handling of the pro se plaintiff's case, particularly its response to the plaintiff's attempt to present a comprehensive set of relevant case files, underscores the unique challenges faced by individuals representing themselves in legal proceedings. The court's decision to sanction the petitioner with dismissal with prejudice, rather than considering the submitted materials as "factual enhancements," raises concerns about the fairness and accessibility of the judicial process for pro se litigants.

Pro Se Plaintiff's Good Faith Effort: The plaintiff's action of printing and submitting all relevant case files, covering exhaustively the claims from MSPB and EEOC proceedings, was a good faith effort to ensure that the court had a full understanding of the case. This initiative was crucial for the court to consider the "factual enhancements" that could provide a more comprehensive context for the plaintiff's claims.

Roseboro v. Garrison and Fair Notice: The precedent set in *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), emphasizes the necessity for courts to provide pro se litigants with clear and fair notice of procedural requirements, especially when facing dispositive motions. This principle aims to safeguard the procedural rights of self-represented individuals, ensuring they are adequately informed to respond to legal challenges.

Eastern District of Virginia Local Rule 7(K): Local Rule 7(K) reflects the principles articulated in *Roseboro*, imposing a duty on counsel to provide pro se parties with warnings that clarify the potential consequences of dispositive motions and outline the steps needed to respond effectively. This rule is integral to ensuring that pro se litigants have a fair opportunity to engage with and respond to legal arguments made against them. The court's decision to sanction the petitioner with dismissal with prejudice, particularly in the context of the plaintiff's proactive efforts to present a thorough account of the claims, raises questions about accessibility for pro se litigants.



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Office of Federal Operations
P. O. Box 77960
Washington, D.C. 20013

June 21, 2022

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

Re: June 7, 2022- Notice of Intent to Sue

Dear Martin Akerman:

The purpose of this letter is to acknowledge that the U.S. Equal Employment Opportunity Commission (EEOC) has received your documentation regarding a notice of intent to file a civil action against the Department of Defense pursuant to Section 15(d) of the Age Discrimination in Employment Act (ADEA) of 1967, as amended, 29 U.S.C Section 633a. For your reference, a copy of your documentation is attached hereto.

This is a form acknowledgment and does not address either the merits of the allegations forming the basis of the notice or the sufficiency of the notice. If you have not filed a formal administrative equal employment opportunity (EEO) complaint, you must provide a notice of intent to sue to the EEOC within one hundred and eighty days after the alleged unlawful practice occurred. Please be aware, however, that your notice must comply with EEOC Management Directive 110, Chapter 4, Section IV. B., which states that the notice of intent to sue should be dated and must contain the following information:

- (1) statement of intent to file a civil action under Section 15(d) of the ADEA;
- (2) name, address, and telephone number of the employee or applicant;
- (3) name, address, and telephone number of the complainant's designated representative, if any;
- (4) name and location of the federal agency or installation where the alleged discriminatory action occurred;
- (5) date on which the alleged discriminatory action occurred;
- (6) statement of the nature of the alleged discriminatory action(s); and
- (7) signature of the complainant or the complainant's representative.

If you have already filed a formal EEO administrative complaint based, at least in part on age, you must exhaust the administrative process before pursuing a civil action in a U. S. district court.

We are forwarding a copy of your notice, and by copy of this response we are providing notice to the Department of Defense of your intent. The Equal Employment Opportunity Commission Directive (EEO-MD-110), Chapter 4, Section IV, requires that within thirty days of receipt of this notice, the agency must review the allegation(s) of age discrimination and conduct an inquiry sufficient to determine whether there is evidence that unlawful age discrimination has occurred. The method of the inquiry is a matter for determination by the particular agency and may vary depending on the scope and complexity of the allegation(s).

In order to resolve age discrimination claims informally and preclude the necessity for litigation, the EEOC expects that the agency's inquiries under EEO-MD-110 will begin immediately and be completed promptly. Agency inquiries based on a notice of intent to sue should begin immediately and be completed promptly. Prompt inquiries are necessary so that a claimant's right to seek redress is not jeopardized by the expiration of a limitations period for filing a civil action. Agencies should implement case tracking systems to ensure the prompt processing of these matters.

The agency is encouraged to make good faith efforts to resolve the matter and must implement the appropriate make-whole relief under 29 C.F.R. Part 1614, Subpart E, where unlawful age discrimination is found. Please be aware that you may file a civil action under the ADEA at any time after thirty days from the date of filing a compliant notice of intent to sue with EEOC regardless of whether your agency has conducted any inquiry into your allegation.

If you have questions regarding the above information, please call the EEOC's Contact Center (Monday through Friday) at 1-800-669-4000 or contact the EEOC's Office of Federal Operations at ofe.eeoc@eeoc.gov.

Sincerely,



Lori Grant, Director
Agency Oversight Division
Office of Federal Operations
Federal Sector Programs

Martin Akerman
Page Three

cc: Charmane Johnson
Department of Defense
Office of Diversity Management and Equal Opportunity
4000 Defense Pentagon Rm 5D641
Washington, DC 20301

Via email: charmane.s.johnson.civ@mail.mil

Maritza Sayle-Walker
Department of the Air Force
A1Q
1500 W. Perimeter Rd Suite 4500
JB Andrews, Maryland 20762

Via email: maritza.sayle_walker.12@us.af.mil

Seema Salter
Department of the Army
US Army Equity and Inclusion Agency
5825 21st Street Building 214
Fort Belvoir, Virginia 22060

Via email: seema.e.salter.civ@army.mil

Paul Kurle
National Guard Bureau
NGB-DEI
111 S. George Mason Drive
Arlington, Virginia 22204

Via email: paul.d.kurle.civ@army.mil

Carey Williams
Defense Counterintelligence and Security Agency
Diversity & Equal Opportunity
27130 Telegraph Road
Quantico, Virginia 22134

Via email: carey.j.williams2.civ@mail.mil

Return Mail Processing Center
8551 East Anderson Dr #108
Scottsdale, AZ 85255

USPS CERTIFIED MAIL



9214 8901 4298 0470 2306 49

0006403296000011

Equal Employment Opportunity Commission
Notice of Intent to Sue
PO BOX 77960
Washington, DC 20013



See Important Information Enclosed

7 June 2022

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

NOTICE OF INTENT TO SUE

1. I intend to file a civil action under Section 15(d) of the Age Discrimination in Employment Act of 1967, as amended. Ref. 29 CFR § 1614.201
2. Martin Akerman
 2001 North Adams Street, Unit 440
 Arlington, VA 22201
 202-656-5601
3. Pro Se
4. Department of Defense (including Department of the Air Force, Department of the Army, National Guard Bureau, and Office of the Under Secretary for Intelligence - DCSA)
 Pentagon, Washington, DC
5. 19 May 2022 - 2 June 2022
6. Statement of the nature of the alleged discriminatory action (Termination):
 - a. There exists in the Department of Defense a taint and bias against individuals who are 40 years of age or older that stems from the cultural adoption of DOPMA.
 - b. I was constructively discharged from my tenured Federal GS-15, Step 10 position.
 - c. The agency took impermissible discriminatory actions, violated my right to due process and lied about my ability to obtain and maintain a security clearance, resulting in working conditions that are so intolerable that any reasonable person would feel compelled to resign.

7. Signed:



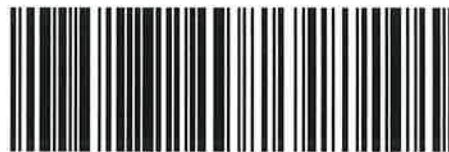
Martin Akerman

County/City of Arlington
 Commonwealth/State of Virginia
 The foregoing instrument was acknowledged
 before me this 7 day of June
2022, by
Martin Akerman
 (name of person seeking acknowledgement)
Shae Williams
 Notary Public
 My Commission Expires: 01-31-2023



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

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

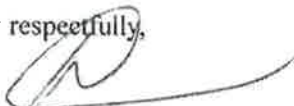
General Hokanson,

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

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,

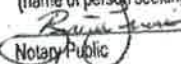

Martin Akerman
makerman.dod@gmail.com

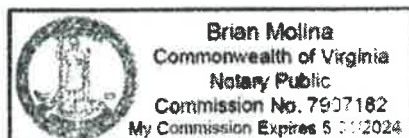
CC: Dr. Clark Cully, Acting Chief Data Officer, Department of Defense
Honorable Christine Wormuth, Secretary of the Army
Honorable Frank Kendall, Secretary of the Air Force
Maj. Gen. Janson Boyles, Mississippi, Chairman, NGAUS
Governor Asa Hutchinson, Arkansas, Chairman, National Governors Association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

¹ 44 U.S. Code § 3520

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

³ 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)

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

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

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.

Appendix C:

Record of the denied Federal Rule of Civil Procedure 60(a) motion, exemplifying the refusal to correct acknowledged judicial errors, thereby necessitating an intervention similar to a writ of error coram nobis.

FILED
**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

Alexandria Division

2023 NOV 17 P 12:47

MARTIN AKERMAN, Pro Se,

Plaintiff,

vs.

General Daniel Hokanson, et. al.

Defendants.

)
) Civil Action Nos. 1:22-cv-0696*
) 1:22-cv-1258

)
) Date: November 17, 2023
)

MOTION TO VACATE JUDGMENT:

DUE TO SPOILIATION OF EVIDENCE,

UNFAIR DISMISSAL WITH PREJUDICE TO THE PRO SE LITIGANT,

AND IRREPARABLE HARM

I, Martin Akerman, a resident of the Commonwealth and State of Virginia, Pro Se, respectfully submit this motion to vacate the judgment in the above-captioned matter. This motion is based on the spoliation of critical evidence, the unfairness of dismissal with prejudice against a pro se litigant, and the irreparable harm caused by incorrect internet records.

As a former tenured Federal employee, I experienced impermissible discriminatory actions by the agency (Title VII), violating my right to due process (under 5 U.S. Code §§ 6329b and 7513), and affecting my security clearance (in violation of 50 U.S. Code § 3341(j)(8)), which together with violations of whistleblower protections (5 U.S. Code § 2302), and false imprisonment under the color of the United States (28 U.S. Code §§ 2241 and 2254), led to intolerable working conditions, and my resignation as Chief Data Officer of the National Guard.

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

MARTIN AKERMAN, Pro Se,

Plaintiff,

vs.

General Daniel Hokanson, et. al.

Defendants.

2023 NOV 17 P 12:47
Civil Action Nos. 1:22-cv-0696

1:22-cv-1258*

Date: November 17, 2023

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D. Certificate of Service

The undersigned hereby certifies that a true copy of the foregoing MOTION TO VACATE

JUDGMENT

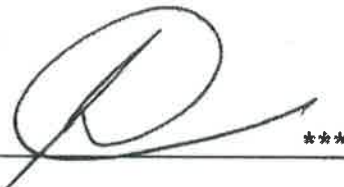
was mailed, on this

17 st/nd/rd/th day of November, 2023 ***

to the United States Attorney for the Eastern District of Virginia and the Attorney General of the United States as required.

E.

Signature of Pro Se Plaintiff: _____

 ***

Martin Akerman, 2001 North Adams Street Unit 440

Arlington, VA 22201

COMMONWEALTH OF VIRGINIA COUNTY OF ARLINGTON

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS

17 st/nd/rd/th day of November, 2023 ***

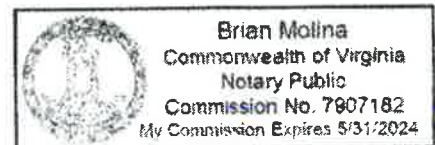
BY: MARTIN AKERMAN.

SIGNATURE OF NOTARY OFFICER: _____



NOTARY REGISTRATION NUMBER: 7907182

MY COMMISSION EXPIRES: 05/31/2024



Appendix D:

National Guard Bureau's Response to Senator Kaine: Features the National Guard Bureau's communication to Senator Tim Kaine, confirming Brigadier General Garduno, of the Nevada Air National Guard, as the deciding official, and referencing jurisdictional responses related to Merit Systems Protection Board proceedings linked to the Supreme Court cases 23A489, 23A536, and 23A701.



NATIONAL GUARD BUREAU

111 SOUTH GEORGE MASON DRIVE, AH2
ARLINGTON VA 22204-1373

May 20, 2022

Office of Legislative Liaison

The Honorable Tim Kaine
United States Senate
Attn: Janet Lomax
222 Central Park Avenue, Suite 120
Virginia Beach, VA 23462

Dear Senator Kaine:

This is in response to your inquiry on behalf of Mr. Martin Akerman regarding his request to obtain an explanation for the agency's decision to indefinitely suspend him from his IT Specialist position with the National Guard Bureau (NGB).

The National Guard Bureau Office of the General Counsel (NGB-GC) received Mr. Akerman's inquiry and provided the following information. By memorandum dated February 14, 2022, Mr. Akerman's immediate supervisor proposed to suspend Mr. Akerman indefinitely from his IT Specialist position based on his failure to attain and/or maintain a condition of employment—a Top Secret /Special Sensitive Information clearance and the suspension of his access to classified information and systems. Mr. Akerman was provided with documentation in support of the proposed action, including an initial decision by the Department of Defense Consolidated Adjudications Facility revoking Mr. Akerman's eligibility for access to classified information and assignment to duties that have been designated national security sensitive, and deny his eligibility for access to Sensitive Compartmented Information.

In an April 11, 2022, memorandum to Mr. Akerman, the Deciding Official, Brigadier General Caesar Garduno, determined the charge of failure to attain and/or maintain the conditions of employment was supported by a preponderance of evidence and Mr. Akerman's indefinite suspension from employment promoted the efficiency of the service.

The agency action to indefinitely suspend Mr. Akerman from the IT Specialist position and other matters are currently subjects of appeals to the U.S. Merit Systems Protection Board (MSPB). For the MSPB appeal with docket number DC-1221-22-0257-W-1, the agency filed a jurisdictional response on May 16, 2022. Likewise, for the MSPB appeal with docket number DC-0752-22-0376-I-1, the agency filed a response on May 17, 2022.

We trust you find this information useful.

Respectfully,

Donna Warren

Donna Warren
Chief, Congressional Inquiries
National Guard Bureau
Office of Legislative Liaison

Enclosure