

No. _____

(23A539)

IN THE
SUPREME COURT OF THE UNITED STATES

Martin Akerman, Pro Se

— PETITIONER

(Your Name)

vs.

Merit Systems Protection Board

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Martin Akeman, Pro Se, In Forma Pauperis

(Your Name)

2001 North Adams Street, Unit 440

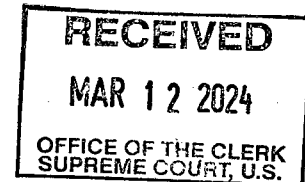
(Address)

Arlington, Virginia, 22201

(City, State, Zip Code)

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QUESTION(S) PRESENTED

1. **Jurisdiction Over Habeas Corpus Decisions from the Federal Circuit:** Does jurisdiction over habeas corpus decisions originating within the administrative state, particularly those adjudicated by the Federal Circuit, reside under federal authority pursuant to 28 U.S.C. § 1254(1), or state authority as per 28 U.S.C. § 1257(a)?
2. **Implications of Respondent Designation in Habeas Corpus Cases:** Given the stipulations of 28 U.S.C. § 2254 on the importance of correctly naming respondents in habeas corpus cases, what are the jurisdictional and procedural implications of designating only the Merit Systems Protection Board as the respondent in cases involving military contexts and issues of federal and judicial immunity?
3. **Constitutional Mandate for Habeas Corpus Challenges:** Is it incumbent upon a judicial body, under the Constitution, to permit challenges to “custody under or by the color of the authority of the United States, or committed for trial before some court thereof,” through habeas corpus petitions?
4. **Spoilation in the Context of Interlocutory Appeal and the Brady Rule:** Within the realm of federal administrative law, specifically concerning quasi-judicial bodies like the Merit Systems Protection Board, what are the legal implications of spoliation of evidence in relation to interlocutory appeals and the obligations of disclosure as mandated by the Brady rule?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

The following parties to the proceeding are missing from the caption of the case within the meaning of Rule 14.1(b)(i):

- Federalized Nevada Air National Guard, Brigadier General, Caesar Garduno;
- BILL POPPLER and MARK BERGLUND(Army);
- KEN MCNEILL (Department of Defense)

The undersigned affirms that no party is a nongovernmental corporation, Rule 29.6.

RELATED CASES

- The United States Court of Appeals for the Armed Forces reviewed a related Petition for Writ of Habeas Corpus and Appeal, under Article 70, UCMJ, which was denied and not allowed to proceed by the Judge Advocate General of the Air Force, on August 24, 2023. See 23A593
- In the United States Court of Appeals for the District of Columbia, a Petition for Writ of Habeas Corpus has been filed under Case No. 23-5230. This is the lead case, encompassing challenges under No. 23-1268, against the designation of the Petitioner as an Enemy Combatant, and No. 23-5229, contesting an alleged conviction. A related Freedom of Information Act Case, No. 23-cv-2574, is currently being heard in the District Court for the District of Columbia.
- Repondents in United States Supreme Court Case 23-623 did not respond, on a related petition from the Supreme Court of Nevada, due January 10, 2023.

RELATED CASES CONTINUED
COLLATERAL CASES PURSUANT TO RULE 14.1(B)(III)

- An emergency application to stay the mandate pending a petition for writ of certiorari to the United States Court of Appeals for the Fourth Circuit, under docket No. 23A489, was denied on January 8, 2024. This matter involves a petition for writ of habeas corpus. A petition for writ of certiorari is due March 29, 2024, under docket 23A536.

- The Supreme Court of Virginia is presently hearing an appeal under Case No. 230670. This leading case addresses a Breach of Legal Insurance, a matter connected to the aforementioned habeas proceedings. It consolidates related cases from the Arlington Circuit Court, the Virginia Court of Appeals, and the State Corporation Commission.

- Lastly, an appeal in the United States Court of Appeals for the Federal Circuit, under Case No. 23-2216, seeks to review the application of 50 U.S. Code § 3341(j)(8) to the Civil Service Reform Act (CSRA).

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1.
IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or,

has been designated for publication but is not yet reported; or,

is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

reported at _____; or,

has been designated for publication but is not yet reported; or,

is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,

has been designated for publication but is not yet reported; or,

is unpublished.

The opinion of the MERIT SYSTEMS PROTECTION BOARD court appears at Appendix B to the petition and is

reported at _____; or,

has been designated for publication but is not yet reported; or,

is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was October 13, 2023.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: November 20, 2023, and a copy of the order denying rehearing appears at Appendix D.

An extension of time to file the petition for a writ of certiorari was granted to and including March 29, 2024 (date) on December 15, 2023 (date) in Application No. 23 A 539.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was May 4, 2023.
A copy of that decision appears at Appendix B.

A timely petition for rehearing was thereafter denied on the following date: June 21, 2023, and a copy of the order denying rehearing appears at Appendix C.

An extension of time to file the petition for a writ of certiorari was granted to and including March 29, 2024 (date) on December 15, 2023 (date) in Application No. 23 A 539.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

"To bereave a man of life or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism, as must at once convey the alarm of tyranny throughout the whole nation; but confinement of the person, by secretly hurrying him to jail, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore A MORE DANGEROUS ENGINE of arbitrary government."¹

Jurisdictional Question Over Habeas Corpus Decisions: This section addresses concerns akin to despotism in the jurisdictional handling of habeas corpus decisions from the Federal Circuit. It questions whether such decisions fall under federal jurisdiction as per 28 U.S.C. § 1254(1), or state jurisdiction as per 28 U.S.C. § 1257(a), especially in cases involving administrative bodies.

Constitutional Obligation for Habeas Corpus Challenges: Reflecting on Hamilton's warning, this part examines the constitutional mandate for judicial bodies to allow challenges to detentions under administrative authority through habeas corpus petitions, as per Article I, Section 9, Clause 2 of the U.S. Constitution.

Implications of Respondent Designation in Habeas Corpus Cases: In line with concerns about obscured justice, this segment explores the implications of designating entities like the Merit Systems Protection Board as respondents in habeas corpus cases, especially considering sovereign immunity and military contexts, First Amendment.

Spoilation and Disclosure in Federal Administrative Courts: This section delves into the issue of spoliation of evidence in federal administrative courts and its impact on interlocutory appeals and the obligations of disclosure under the Brady rule, highlighting the delicate balance between administrative procedures and fundamental rights to fair trial, Fifth and Sixth Amendments.

¹ Alexander Hamilton, Federalist 84

STATEMENT OF THE CASE

This case concerns critical legal and constitutional issues surrounding jurisdictional and procedural aspects of federal administrative law, particularly as they relate to habeas corpus, spoliation of evidence, interlocutory appeals, and the obligations of disclosure under the Brady rule.

The petitioner, Martin Akerman, previously filed a petition for writ of habeas corpus, which was dismissed erroneously as a petition for mere review of a Merit Systems Protection Board decision, rather than a petition for habeas corpus under 28 USC 2254. This misidentification not only deprived the petitioner of his rightful legal avenue to challenge alleged false imprisonment but also raised substantial concerns regarding the proper application of procedural safeguards in federal administrative law.

This case delves into profound legal and constitutional issues, particularly in the context of habeas corpus and the jurisdictional boundaries between federal and state courts, as delineated by the Constitution and federal statutes. Central to this case is the question of whether decisions regarding habeas corpus from the Federal Circuit fall under federal jurisdiction as per 28 U.S.C. § 1254(1), or under state jurisdiction according to 28 U.S.C. § 1257(a). This inquiry is especially pertinent in cases involving administrative bodies and raises broader constitutional concerns rooted in the principles of federalism as outlined in Article III and the Tenth Amendment of the U.S. Constitution.

A pivotal element of this case also revolves around the alleged illegal use of the National Guard by the federal government, which presents significant constitutional ramifications. The mobilization and utilization of the National Guard, traditionally a state militia, by federal authorities potentially infringe upon the delicate balance of power between state and federal governments. This issue not only touches upon the constitutional roles and limitations of federal and state authorities but also raises important questions about the rights of individuals under the jurisdiction of these entities, particularly in the context of habeas corpus.

STATEMENT OF THE CASE CONTINUED

The case further explores the constitutional mandate for judicial bodies to permit challenges to detentions under administrative authority through habeas corpus petitions, as per Article I, Section 9, Clause 2 of the U.S. Constitution. This is juxtaposed against the potential for sovereign immunity and military contexts to obscure justice, especially when specific entities like the Merit Systems Protection Board are designated as sole respondents in habeas corpus cases. The implications of such designations, in light of the First Amendment, the Fifth Amendment's due process clause, and the Sixth Amendment's fair trial guarantees, are profound.

Moreover, the case addresses the issue of spoliation of evidence in federal administrative courts and its impact on interlocutory appeals and the obligations of disclosure under the Brady rule. This aspect highlights the delicate balance between administrative procedures and the fundamental rights to a fair trial, an issue that is of paramount importance in the preservation of justice and the rule of law in administrative settings.

The principle of adverse inference is entrenched in the legal system. When a party fails to produce relevant evidence, especially after notice and duty to do so, the court may infer that the evidence was unfavorable to that party. Movant has previously identified case records as crucial for the case's fair adjudication. The current absence of case DC-0752-23-0457-S-1 is suggestive of potential evidence spoliation. Without these records, the Movant faces an undeniable and unfair disadvantage. To ensure that justice is served, it is pivotal that an adverse inference be made to counterbalance the harm caused by the missing records.

A copy of the order denying injunction appears at Appendix E.

A copy of the order denying adverse inference appears at Appendix F.

REASONS FOR GRANTING THE PETITION

This petition for writ of certiorari, grounded in the principles articulated by Hamilton and enshrined in the Constitution, raises crucial questions about the balance of power, individual rights, and procedural justice. It underscores the potential for despotism in the procedural handling of habeas corpus petitions and calls into question the actions of military officials in their exercise of civilian legal standards. The case's significance is further highlighted by its potential conflict with state and federal law, as well as existing legal precedents. Addressing these concerns, particularly the petitioner's rights under First and Fourth Amendment protections, is not only urgent but paramount to maintaining the constitutional balance of liberty and authority.

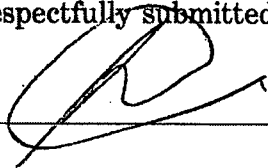
This petition thus presents an essential opportunity for judicial scrutiny and redress, reinforcing the indispensable role of habeas corpus in safeguarding individual freedoms against arbitrary government actions. The issues raised herein, from jurisdictional ambiguities to the spoliation of evidence in administrative courts, resonate with fundamental principles of justice and due process. They implore a reexamination of the balance between administrative authority and individual rights, particularly in contexts involving military and governmental entities.

By granting this petition, the Supreme Court has the opportunity to address and clarify these significant legal questions, thus contributing to the development and refinement of federal administrative law. This case not only affects the petitioner but also has broad implications for the interpretation and application of constitutional rights and administrative procedures nationwide. The Court's guidance is imperative in navigating the complexities of these issues and in ensuring that justice is not just a theoretical ideal but a practical reality in our legal system.


CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: JANUARY 16, 2024

County/City of Arlington
Commonwealth/State of Virginia
The foregoing instrument was acknowledged
before me this 16 day of Jan,
2024, by
Martin Akerman
(name of person seeking acknowledgement)

Notary Public
My Commission Expires: 05/31/2024

