

No. 24-83

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 District of Columbia Circuit

MOTION TO DEFER CONSIDERATION
AND TO CONSOLIDATE FOR UNIFORM REVIEW OF RELATED CASES

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MOTION FOR DEFERRAL AND CONSOLIDATION

Martin Akerman ("Petitioner"), proceeding pro se, respectfully requests this Honorable Court to defer consideration of his new case (attached) and consolidate it with cases being considered for similar issues, including:

- The petitioner has an Application to extend the time to file a pending petition for writ of certiorari to the U.S. Court of Appeals for the D.C. Circuit, on a FOIA appeal, vide 23A1097.
- The petitioner has a replevin appeal, before the U.S. Court of Appeals for the Federal Circuit, 2024-130, see also 2024-1912, 2024-1914, and 2024-1915 on final orders from MSPB, awaiting consolidation, and transitioning administrative cases to civil litigation under 5 U.S.C. § 7702(e)(1)(B), attached.
 - In *Gates v. VA*, 2021 U.S. App. LEXIS 40129, the Federal Circuit transferred the case to the United States District Court for the Central District of California because the petitioner raised a discrimination claim, making it a mixed case. The court cited *Perry v. Merit Systems Protection Board*, 582 U.S. 420, which held that mixed cases are appealable only to a federal district court.

- In *Green-Doyle v. Dep't of Homeland Sec.*, the Federal Circuit dismissed the petitioner's appeal for lack of jurisdiction because it was a mixed case involving a discrimination claim under Title VII. The court reiterated that mixed cases must be reviewed by a district court, not the Federal Circuit *Green-Doyle v. Dep't of Homeland Sec.*, 817 Fed. Appx. 983.
- If the Federal Circuit and Fourth Circuit are exhausted, the Petitioner will file an Extraordinary writ of Mandamus to allow the petitioner to file this case as an original non-exclusive jurisdiction filing in the Supreme Court, requiring deferral and consolidation with the instant case.
- Additionally, the Federal Circuit may consolidate cases 2024-1926 and 2024-1913, which were never in a district court.
- Critical WPEA collateral procedure appeals 2024-132 and 2024-133 in the Federal Circuit were dismissed, per curiam, and are awaiting rehearing/rehearing en banc. These cases are critical as they address the scope of whistleblower claims that will be considered when considering the case "as a whole", WPEA.

GROUNDS FOR DEFERRAL AND CONSOLIDATION

The cases listed share common legal questions concerning habeas corpus jurisdiction, military authority, and the scope of constitutional protections under due process across different jurisdictions. Consolidating these cases for a unified consideration would promote judicial efficiency and ensure consistent legal interpretation, particularly in addressing:

Judicial Efficiency:

Consolidation would prevent redundant proceedings and inconsistent rulings across similar legal issues, thus saving resources and enhancing procedural efficiency.

Consistent Legal Interpretation:

A unified consideration of these cases would ensure that all related legal questions are resolved with uniformity, preventing divergent interpretations that could complicate jurisprudence in related areas.

Prejudice and Expense:

Consolidation would minimize the potential for prejudice by ensuring equitable treatment of similar legal issues, while also reducing the logistical and financial burdens associated with multiple, separate proceedings.

RELIEF

Petitioner requests that the consideration of his new case be deferred and that it be consolidated with the related cases for unified consideration. This approach would facilitate a more holistic examination of the issues and ensure that all related matters are resolved in a manner that reflects the interconnected nature of the legal principles involved.

CONCLUSION

For the reasons stated herein, Petitioner respectfully requests that the Court grant this motion to defer consideration of the new case and to consolidate it with the aforementioned related cases, if and when they make their way to the Supreme Court, for a comprehensive review of the legal questions presented.

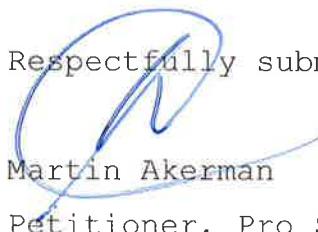
CERTIFICATE OF COMPLIANCE WITH SUPREME COURT RULE 33.2

Pursuant to Supreme Court Rule 33.2, I hereby certify that this Motion for Deferral and Consolidation conforms to the formatting requirements as set forth by the rule. This document is typed in 12-point Courier font, double-spaced, with the text presented in black on standard 8.5- by 11-inch white paper.

The pages are stapled at the upper left-hand corner, and the document contains no indented quotations. The word count for this motion is 623 words, which is within the allowable limit for this type of motion under Supreme Court rules. The Court receives an original and ten copies of this Motion.

Dated this 19th day of July, 2024.

Respectfully submitted,


Martin Akerman

Petitioner, Pro Se

2001 North Adams Street, Unit 440
Arlington, VA 22201

Phone: (202) 656-5601

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ATTACHMENTS TO THE
MOTION TO DEFER CONSIDERATION
AND TO CONSOLIDATE FOR UNIFORM REVIEW OF RELATED CASES

July 14, 2024 Petition for Review of Final Decisions
of the Merit Systems Protection Board - USCAFC 24-130

- **Page 1:** Petition for Review of DC-0752-22-0376-I-1 (mixed case) and DC-0752-22-0376-S-1 (stay request)
- **Page 2:** Communication with SCOTUS Clerk regarding mixed cases.
- **Page 36:** Stay request in want of jurisdiction.

FORM 5. Petition for Review/Notice of Appeal of an Order or Decision of an Agency, Board, Commission, Office, Bureau, or the US Court of Federal Claims (vaccine appeals only)

Form 5
March 2023

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

PETITION FOR REVIEW/NOTICE OF APPEAL

Notice is hereby given that the petitioner(s)/appellant(s) listed below hereby appeal(s) the below-noted case to the United States Court of Appeals for the Federal Circuit.

Originating Tribunal (*Name of Agency, Board, Commission, Office, Bureau, or Court whose decision is being appealed*): MSPB

Case number being appealed: DC-0752-22-0376-I-1 & DC-0752-22-0376-S-1

Case title being appealed: Akerman v Army

Date of final decision or order being appealed: 08/10/2022

Date decision or order was received: 08/10/2022

I have attached a copy of the decision or order being appealed.

List all Petitioners/Appellants (List each party filing this appeal. Do not use "et al." or other abbreviations. Attach continuation pages if necessary.)

MARTIN AKERMAN, PRO SE

Date: 07/14/2024

Signature: 

Name: MARTIN AKERMAN, PRO SE

Address: 2001 NORTH ADAMS STREET

UNIT 440

ARLINGTON, VA 22201

Phone Number: 202-656-5601

Email Address: makerman.16@gmail.com

EQUITABLE TOLLING ATTACHMENTS:

1. LETTER FROM SCOTUS CLERK

(JULY 11, 2024)

2. CERTIORARI DENIED 11SCOTUS 23-7072
(JUNE 10, 2024)

3. CONFIRMATION FROM EEOC AS FILED
IN DISTRICT COURT
(OCT 18, 2022)

4. FINAL DECISION DC-0752-22-0376-I-1 (AUGUST 10, 2022)

5. FINAL DECISION DC-0752-22-0376-S-1 (APRIL 29, 2022)

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

July 11, 2024

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

RE: In Re: Martin Akerman
Extraordinary Writ of Mandamus/Prohibition to USSC

Dear Mr. Akerman:

The above-entitled petition for an extraordinary writ of mandamus/prohibition was hand delivered on July 1, 2024 and received on July 3, 2024. The papers are returned for the following reason(s):

Please be advised a petition for an extraordinary writ of mandamus/prohibition may not be directed to the United States Supreme Court or filed with a correspondence by the Clerk's office of the United States Supreme Court. You may append a copy of the lower court judgment or order in respect of which the writ is sought. Rule 20.3 pertaining to petitions for writs of prohibition and mandamus.

Your petition(s) and money order in the amount of \$300 are herewith returned.

Sincerely,
Scott S. Harris, Clerk
By:

Susan Frimpong
(202) 479-3039

Enclosures



U.S. MERIT SYSTEMS PROTECTION BOARD

Office of the Clerk of the Board

1615 M Street, N.W.
Washington, D.C. 20419-0002

Phone: 202-653-7200; Fax: 202-653-7130; E-Mail: mspb@mspb.gov

April 29, 2022

Notice to:

Martin Akerman
2001 North Adams Street
440
Arlington, VA 22201

Re: Martin Akerman v. Department of the Army
MSPB Docket Number: DC-0752-22-0376-S-1

On April 29, 2022, you electronically filed a pleading with this office that you have titled as a "Petition for Review" in MSPB Docket No. DC-0752-22-0376-S-1. Please be advised that the Board's regulations do not provide for the filing of a petition for review when an administrative judge denies a request for a stay under 5 C.F.R. § 1209. Therefore, the Board will take no further action concerning your April 29, 2022 submission relating to MSPB Docket No. DC-0752-22-0376-S-1. However, this in no way impacts your ability to continue to pursue the claims currently pending before the administrative judge in MSPB Docket No. DC-0752-22-0376-I-1 or your ability to file a petition for review in that matter after the administrative judge issues an initial decision.

Jennifer Everling
Acting Clerk of the Board

/s/
Dinh Chung _____
Case Management Specialist