

No. 24M\_\_\_\_\_ (24A155 & 24A147)

VIDE 23M44 & 24A507

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**In The**  
*Supreme Court of the United States*

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MARTIN AKERMAN, PRO SE,

*Petitioner,*

v.

MERIT SYSTEMS PROTECTION BOARD,

*Respondent(s).*

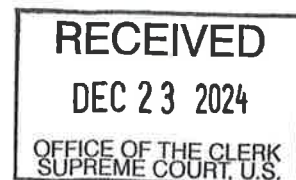
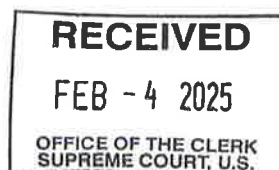
ON PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT

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**MOTION FOR LEAVE TO PROCEED  
UNDER RULE 40, AND TO PROCEED  
ON PAPERS AND BRIEFS PREPARED**

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MARTIN AKERMAN, *pro se*,  
*in forma pauperis*  
2001 North Adams Street, Unit 440  
Arlington, VA 22201  
(202) 656 - 5601



**Declaration of Status as a Veteran**

This motion is submitted pursuant to Rule 40 of the Rules of the Supreme Court of the United States. I respectfully request leave from the Court to proceed as a veteran in this case.

This case arises, in large part, under Chapter 43 of Title 38, United States Code, specifically the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). Under 38 U.S.C. § 4323(h)(1), “[n]o fees or court costs may be charged or taxed against any person claiming rights under this chapter.” I seek leave to proceed accordingly.

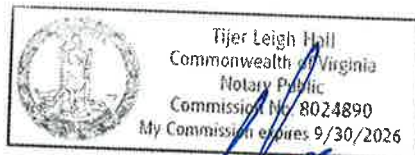
I bring the Court's attention to the following:

1. Related Habeas Proceedings: My pending case in the Ninth Circuit, Case No. 2024-6166, addresses a federal habeas corpus petition concerning the Nevada National Guard.
2. Related Proceedings: My case pending rehearing en banc in the Fourth Circuit granted waiver of the filing fee on October 1, 2024.
3. Supreme Court Precedent: On December 11, 2023, in *Akerman v. Nevada National Guard*, Case No. 23M44, this Court granted my motion for leave to proceed as a veteran under Rule 40.
4. Pending Case: A related petition is currently pending before this Court in *Akerman v. Merit Systems Protection Board, et al.*, Case No. 24A507. The issues in these cases are intertwined and involve protections afforded under USERRA and other statutory frameworks.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully Submitted,

MARTIN AKERMAN, pro se  
2001 North Adams Street, Unit 440  
Arlington, VA 22201  
(202) 656 - 5601



County/City of Arlington Virginia  
Commonwealth/State of  
The foregoing instrument was acknowledged  
before me this 18th day of December  
2024, by Martin Akerman  
(name of person seeking acknowledgement)  
Notary Public Tjer Leigh Hall  
My Commission Expires: 09/30/2026

FILED: October 1, 2024

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 24-1943  
(1:22-cv-01258-LMB-WEF)

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In re: MARTIN AKERMAN

Petitioner

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O R D E R

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Upon consideration of the motion for waiver of the filing fee, the court grants the motion.

For the Court--By Direction

/s/ Nwamaka Anowi, Clerk

**Martin Akerman**

2001 North Adams Street, Unit 440

Arlington, VA 22201

(202) 656-5601

makerman.dod@gmail.com

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

In re: Martin Akerman, Petitioner

Case No. \_\_\_\_\_

**MOTION TO WAIVE FEES**

**PURSUANT TO THE WHISTLEBLOWER PROTECTION PROVISIONS OF USERRA**

TO THE HONORABLE JUDGES OF THE UNITED STATES COURT OF APPEALS FOR  
THE FOURTH CIRCUIT:

COMES NOW, Petitioner Martin Akerman, pro se, and respectfully moves this Court to waive all filing fees and court costs associated with this action pursuant to the whistleblower protection provisions under the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. § 4323(h)(1), and the anti-retaliation protections afforded under 38 U.S.C. § 4311(b). In support of this Motion, Petitioner states as follows:

## **I. LEGAL BASIS FOR FEE WAIVER UNDER USERRA**

USERRA provides robust protections for individuals who exercise their rights under the statute, including whistleblowers and individuals facing retaliatory employment actions. Under 38 U.S.C. § 4323(h)(1), no fees or court costs may be charged to a person claiming rights under USERRA:

**“No fees or court costs may be charged or taxed against any person claiming rights under this chapter.”**

Additionally, 38 U.S.C. § 4311(b) prohibits any employer from taking adverse employment actions against an individual who has taken steps to enforce their rights, provided testimony, assisted in an investigation, or exercised any right afforded under USERRA:

**“An employer may not discriminate in employment against or take any adverse employment action against any person because such person (1) has taken an action to enforce a protection afforded any person under this chapter, (2) has testified or otherwise made a statement in or in connection with any proceeding under this chapter, (3) has assisted or otherwise participated in an investigation under this chapter, or (4) has exercised a right provided for in this chapter.”**

This prohibition applies whether or not the individual has served in the uniformed services, ensuring that those who assert their rights under USERRA, including federal whistleblowers, are protected from retaliation.

## **II. PETITIONER'S CLAIMS AND USERRA PROTECTIONS**

Petitioner is asserting claims that arise under USERRA and the Whistleblower Protection Enhancement Act (WPEA), challenging retaliatory actions taken against him due to his protected whistleblower activities. Specifically, Petitioner's federal employment tenure was wrongfully forfeited following disclosures of federal misconduct, triggering adverse employment actions in violation of USERRA and WPEA protections.

Under 38 U.S.C. § 4311(b), Petitioner is protected from any adverse actions for exercising his rights, assisting in investigations, and participating in proceedings. Petitioner's employment as Chief Data Officer for the National Guard Bureau was terminated unlawfully due to his whistleblower actions, making the relief sought under this statute appropriate.

Petitioner's engagement in whistleblower activities, including disclosing federal wrongdoing and participating in legal proceedings under USERRA, directly entitles him to the protections outlined in 38 U.S.C. § 4311(b), further supporting the waiver of all fees and costs in this case.

Petitioner was granted USERRA fee waiver in related case 23M44, ORDER attached.



### III. FINANCIAL HARDSHIP

Petitioner is proceeding pro se and faces significant financial hardship due to the wrongful termination of his federal employment and the prolonged legal proceedings required to restore his rights. The imposition of court fees would create an undue financial burden and would impede Petitioner's ability to effectively pursue his claims.

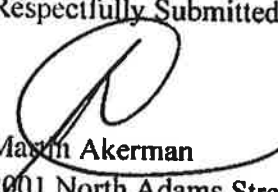
Waiving the court fees aligns with USERRA's purpose, ensuring that individuals, particularly whistleblowers who face retaliatory actions, are not financially burdened while seeking legal redress. The statute's intent is to remove barriers to justice for those exercising their rights under USERRA, including protection from adverse actions under 38 U.S.C. § 4311(b).

### IV. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Grant this Motion to Waive the Filing Fee for the accompanying Petition for Writ of Mandamus, pursuant to 38 U.S.C. § 4323(h)(1) under USERRA and the whistleblower protections provided under 38 U.S.C. § 4311(b).
- B. Provide any other relief that this Court deems just and proper.

Respectfully Submitted,

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

**Supreme Court of the United States  
Office of the Clerk  
Washington, DC 20543-0001**

December 11, 2023

**Scott S. Harris  
Clerk of the Court  
(202) 478-3011**

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

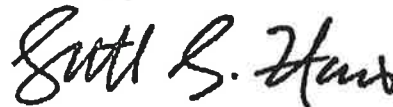
**Re: Martin Akerman  
v. Nevada National Guard  
No. 23M44**

**Dear Mr. Akerman:**

**The Court today entered the following order in the above-entitled motion:**

**The motion for leave to proceed as a veteran is granted.**

**Sincerely,**

A handwritten signature in black ink, appearing to read "Scott S. Harris".

**Scott S. Harris, Clerk**