

No. 23M_____ (Linked to No. 23A355)

In The
Supreme Court of the United States

MARTIN AKERMAN, PRO SE,

Petitioner,

v.

NEVADA NATIONAL GUARD,

Respondent(s).

ON PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF THE STATE OF NEVADA

**MOTION FOR LEAVE TO PROCEED IN
FORMA PAUPERIS AND AS A VETERAN
UNDER RULE 40 AND 20 CFR 1002.310, AND
TO PROCEED ON PAPERS AND BRIEFS
PREPARED**

MARTIN AKERMAN, *pro se*,
in forma pauperis

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

**To the Honorable, the Chief Justice and the
Associate Justices of the Supreme Court of the
United States:**

Respectfully, I, Martin Akerman, Pro Se, submit this motion to request leave to proceed in forma pauperis, as a veteran under Rule 40 and 20 CFR 1002.310, and to proceed on papers and briefs prepared, as related to my actions under USERRA.

AFFIDAVIT IN SUPPORT

Attachment A provides detailed evidence and documentation supporting my claims under 20 CFR 1002.310, illustrating that my petition/appeal arises from my enforcement actions, testimonies, and assistance in USERRA protections and investigations.

20 CFR 1002.310 Considerations: As per 20 CFR 1002.310, no fees or court costs should be charged against me, asserting rights under USERRA.

USERRA Status

20 CFR 1002.23(a)(3): My petition/appeal stems from my enforcement actions of USERRA protections.

20 CFR 1002.23(a)(4): It stems from testimonies or statements I delivered in USERRA proceedings.

20 CFR 1002.23(a)(5): It arises from my assistance in a USERRA investigation.

Attachment A - Department of Defense OIG Investigation on April 25, 2022, detailing actions covered under USERRA, dating back to May 29, 2021.

Attachment B - Petitioner has proceeded under USERRA in the US Courts of Appeals (DC and Federal Circuit).

Financial Status

Due to my financial situation, I request to proceed in forma pauperis, as evidenced in IFP Approval in the Supreme Court of Nevada (Attachment C).

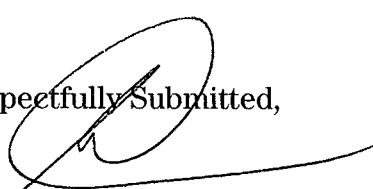
USE OF FORMS AND AI

I appreciate the Clerk of the Supreme Court for the pro se, in forma pauperis forms, provided on October 12, 2023. I used artificial intelligence as an aid, given my PTSD-related challenges, ensuring its ethical application without substituting legal expertise.

AFFIRMATION

I affirm under penalty of perjury that the statements made herein are true and correct. Signed and dated November 14, 2023, under Oath.

Respectfully Submitted,


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

County/City of Arlington VA
 Commonwealth/State of VA
 The foregoing instrument was acknowledged
 before me this 14th day of November
2023 by MARTIN AKERMAN
 (name of person seeking acknowledgement)
 Notary Public
 My Commission Expires: 09/30/2023



No. 23M_____ (Linked to No. 23A355)

In The
Supreme Court of the United States

MARTIN AKERMAN, PRO SE,

Petitioner,

v.

NEVADA NATIONAL GUARD,

Respondent(s).

ON PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF THE STATE OF NEVADA

**ATTACHMENTS IN SUPPORT OF
MOTION FOR LEAVE TO PROCEED IN
FORMA PAUPERIS AND AS A VETERAN
UNDER RULE 40 AND 20 CFR 1002.310**

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

Attachment A

1. May 29, 2021: Initial report to mentors concerning the wellbeing of Col McDaniel. This action is significant under 20 CFR 1002.23(a)(3), which deals with enforcement actions of USERRA protections. The report aimed at advocating for or ensuring compliance with the rights and protections under USERRA.
2. August 11, 2021: The Office of Special Counsel (OSC) requested the May 29, 2021, report for further investigation. This action aligns with 20 CFR 1002.23(a)(5), encompassing assistance in a USERRA investigation. The provision of information for the OSC's investigation highlights the Petitioner's role in assisting in an investigation related to USERRA matters.
3. March 30, 2022: The commencement of an investigation by the Office of the Inspector General (OIG). This is also relevant under 20 CFR 1002.23(a)(5).

TIM Kaine
VIRGINIA

COMMITTEE ON
ARMED SERVICES

COMMITTEE ON
FOREIGN RELATIONS

COMMITTEE ON
THE BUDGET

COMMITTEE ON
HEALTH, EDUCATION, LABOR,
AND PENSIONS

United States Senate

WASHINGTON, DC 20510-4607

WASHINGTON OFFICE
WASHINGTON, DC 20510-4607
(202) 224-4024

March 30, 2022

Mr. Martin Akerman
2001 N Adams St Unit 440
Arlington, VA 22201-3783

Dear Mr. Akerman:

I have received the following emailed correspondence from Department of Defense in response to my inquiry on your behalf.

Your inquiry on behalf of Mr. Martin Akerman was referred to the DoD Office of Inspector General. Mr. Akerman filed a complaint with the Defense Hotline on February 27, 2022. It was referred to our Office of Whistleblower Reprisal Investigations (WRI) and our Office of Investigations of Senior Officials on March 1, 2022. Both cases remain open. Mr. Akerman alleged the revocation of his security clearance, "looming" indefinite suspension, and other Prohibited Personnel Practices (PPP) actions were taken in reprisal after reporting violations of 5 U.S.C. 5502, Unauthorized office; prohibition on use of funds to management officials.

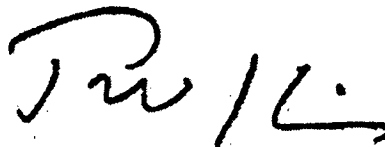
Mr. Akerman's indefinite suspension action and other PPP actions are currently under review at the U.S. Office of Special Counsel (OSC). WRI is currently evaluating Mr. Akerman's security clearance revocation allegation under the provisions of Presidential Policy Directive 19, "Protecting Whistleblowers with Access to Classified Information, October 10, 2012," as implemented in the DoD by Directive-type Memorandum 13-008, "DoD Implementation of Presidential Policy Directive 19," July 8, 2013 (Incorporating Change 4, July 19, 2017). Chief, Legislative Affairs

*Chief, Legislative Affairs
Office of Legislative Affairs and Communications
DoD Office of Inspector General*

You will continue to be updated as soon as new information becomes available to my office. If you have any questions about the status of your letter please contact my Military Coordinator, Janet Lomax, by phone at 757-518-1674.

Again, thank you for writing.

Sincerely,



Tim Kaine



Martin Akerman <makerman@gmail.com>

RE: Radio Silence

AKERMAN, MARTIN GS-15 USAF HAF SAF/SAF/CO <martin.akerman.1@us.af.mil>
To: "makerman@gmail.com" <makerman@gmail.com>

Thu, Aug 26, 2021 at 7:13 AM

-----Original Message-----

From: Drake, Emily <EDrake@osc.gov>
Sent: Tuesday, August 17, 2021 12:12 PM
To: AKERMAN, MARTIN GS-15 USAF HAF SAF/SAF/CO <martin.akerman.1@us.af.mil>
Subject: [Non-DoD Source] RE: Radio Silence

This is exactly what I was looking for. Thank you!

-----Original Message-----

From: AKERMAN, MARTIN GS-15 USAF HAF SAF/SAF/CO <martin.akerman.1@us.af.mil>
Sent: Tuesday, August 17, 2021 12:09 PM
To: Drake, Emily <EDrake@osc.gov>
Subject: FW: Radio Silence

CAUTION: EXTERNAL EMAIL Do not click on links, open attachments, or provide information unless you are sure the message is legitimate and the content is safe.



Martin Akerman <makerman@gmail.com>

RE: Radio Silence

AKERMAN, MARTIN GS-15 USAF HAF SAF/SAF/CO <martin.akerman.1@us.af.mil>
To: "makerman@gmail.com" <makerman@gmail.com>

Sun, Jun 20, 2021 at 11:48 AM

From: AKERMAN, MARTIN GS-15 USAF HAF SAF/SAF/CO
Sent: Tuesday, June 15, 2021 8:19 AM
To: MCDANIEL, MICHAEL T Col USAF HAF SAF/SAF/CO <michael.mcdaniel.1@us.af.mil>
Cc: BAUCOM, CARLA J GS-14 USAF HAF SAF/SAF/AARC <carla.baucom@us.af.mil>
Subject: RE: Radio Silence

Received and thank you for understanding.

From: MCDANIEL, MICHAEL T Col USAF HAF SAF/SAF/CO <michael.mcdaniel.1@us.af.mil>
Sent: Tuesday, June 15, 2021 8:11 AM
To: AKERMAN, MARTIN GS-15 USAF HAF SAF/SAF/CO <martin.akerman.1@us.af.mil>
Cc: BAUCOM, CARLA J GS-14 USAF HAF SAF/SAF/AARC <carla.baucom@us.af.mil>
Subject: RE: Radio Silence

Mr. Akerman,

As you're most certainly aware, sick leave is a qualified entitlement to be used when an employee is incapacitated and unable to perform his/her duties.

If you are incapacitated for duty, I am hereby approving your below request for sick leave today.

I expect you will log off your work computer immediately and take care of yourself, as you are not authorized to perform any work while in a sick leave status.

I hope the rest helps you feel better.

V/r,

Col McDaniel

MICHAEL T. MCDANIEL, Colonel, USAF
SAF/CO Air Force Chief Data Office
Deputy Chief Data Officer
1600 Air Force Pentagon, Room 5E811
Email: michael.mcdaniel.1@us.af.mil
Cell: 240-351-7843
Comm: (703) 692-9850 DSN: 222-9850

From: AKERMAN, MARTIN GS-15 USAF HAF SAF/SAF/CO <martin.akerman.1@us.af.mil>
Sent: Tuesday, June 15, 2021 6:52 AM
To: MCDANIEL, MICHAEL T Col USAF HAF SAF/SAF/CO <michael.mcdaniel.1@us.af.mil>
Cc: BAUCOM, CARLA J GS-14 USAF HAF SAF/SAF/AARC <carla.baucom@us.af.mil>
Subject: RE: Radio Silence

Sir,

I woke up not feeling well. I am taking sick leave today.

However, if you're able to get the Seniors and AFDW together for today's meeting please let me know and I will find a way to make the meeting.

Otherwise, please feel free to send me the decision in writing.

V/r,

Martin

From: AKERMAN, MARTIN GS-15 USAF HAF SAF/SAF/CO
Sent: Monday, June 14, 2021 4:03 PM
To: MCDANIEL, MICHAEL T Col USAF HAF SAF/SAF/CO <michael.mcdaniel.1@us.af.mil>
Cc: BAUCOM, CARLA J GS-14 USAF HAF SAF/SAF/AARC <carla.baucom@us.af.mil>; VIDRINE, EILEEN M SES USAF HAF SAF/SAF/CO <eileen.vidrine@us.af.mil>; KNAUSENBERGER, LAUREN SES USAF HAF SAF/CN <lauren.knausenberger@us.af.mil>
Subject: RE: Radio Silence

Sir, I am requesting the AFDW Dispute Resolution Service to be present. Also, Kindly requesting the heads of SAF/CO and SAF/CN to be present (Ms. Vidrine and Ms. Knausenberger)

From: MCDANIEL, MICHAEL T Col USAF HAF SAF/SAF/CO <michael.mcdaniel.1@us.af.mil>
Sent: Monday, June 14, 2021 3:57 PM

6/20/2021

Gmail - RE: Radio Silence

To: AKERMAN, MARTIN GS-15 USAF HAF SAF/SAF/CO <martin.akerman.1@us.af.mil>
Cc: BAUCOM, CARLA J GS-14 USAF HAF SAF/SAF/AARC <carla.baucom@us.af.mil>
Subject: FW: Radio Silence

Mr. Akerman,

I am ready to inform you of my decision regarding this misconduct. As your supervisor, I am directing you to dial into the meeting titled "Decision Follow-up" tomorrow, 15 Jun 2021 at 1400. This is a mandatory appointment. Calendar invite to follow.

V/r,

Col McDaniel

MICHAEL T. MCDANIEL, Colonel, USAF
SAF/CO Air Force Chief Data Office
Deputy Chief Data Officer
1600 Air Force Pentagon, Room 5E811
Email: michael.mcdaniel.1@us.af.mil
Cell: 240-351-7843
Comm: (703) 692-9850 DSN: 222-9850

From: MCDANIEL, MICHAEL T Col USAF HAF SAF/SAF/CO
Sent: Friday, June 11, 2021 4:04 PM
To: AKERMAN, MARTIN GS-15 USAF HAF SAF/SAF/CO <martin.akerman.1@us.af.mil>
Cc: BAUCOM, CARLA J GS-14 USAF HAF SAF/SAF/AARC <carla.baucom@us.af.mil>
Subject: RE: Radio Silence

Mr. Akerman,

I am hereby acknowledging receipt of your below written response to the proposed reprimand.

V/r,

Col McDaniel

MICHAEL T. MCDANIEL, Colonel, USAF
SAF/CO Air Force Chief Data Office
Deputy Chief Data Officer

1600 Air Force Pentagon, Room 5E811

Email: michael.mcdaniel.1@us.af.mil

Cell: 240-351-7843

Comm: (703) 692-9850 DSN: 222-9850

From: AKERMAN, MARTIN GS-15 USAF HAF SAF/SAF/CO <martin.akerman.1@us.af.mil>
Sent: Thursday, June 10, 2021 4:22 PM
To: MCDANIEL, MICHAEL T Col USAF HAF SAF/SAF/CO <michael.mcdaniel.1@us.af.mil>
Cc: BAUCOM, CARLA J GS-14 USAF HAF SAF/SAF/AARC <carla.baucom@us.af.mil>;
makerman@gmail.com
Subject: RE: Radio Silence

Sir,

If after discussing the case with the civilian personnel section, a decision to reprimand me is reached again, it is out of my control.

I would like to see you continue to develop as a leader, able to action lawful commands in support of our mission (10 USC 880, 890, 892, 1034). As highlighted below, I signed an Oath of Office and believe in putting the Constitution, laws, and ethical principles of the United States above private gain or desire to "protect the credibility of the organization, the mission, and SAF/CO leadership". I have witnessed fraud, waste, and abuse threatening to cause damage to SAF/CO and limit our ability to leverage data and limited resources in the age of great power competition.

I have a right to reach out to my mentors afforded to me through the DAF MyVector program. You and I both attended Ethics training together on 28 August 2021.

Please kindly respond to my question related to Equality dated 4 June 2021.

V/r,

Martin

From: MCDANIEL, MICHAEL T Col USAF HAF SAF/SAF/CO <michael.mcdaniel.1@us.af.mil>
Sent: Thursday, June 10, 2021 2:35 PM
To: AKERMAN, MARTIN GS-15 USAF HAF SAF/SAF/CO <martin.akerman.1@us.af.mil>
Cc: BAUCOM, CARLA J GS-14 USAF HAF SAF/SAF/AARC <carla.baucom@us.af.mil>
Subject: FW: Radio Silence

Mr. Akerman,

The disparaging remarks you made in the below email to Air Force senior leaders about SAF/CO are extremely unprofessional and cause damage to the credibility of the organization, the mission, and SAF/CO leadership. As your supervisor, I have a responsibility to address this misconduct. In accordance with AFI 36-704, I'm hereby proposing a formal written 2-year reprimand for conduct unbecoming a federal employee.

You have the right to respond verbally and/or in writing to me by 13 Jun. I will consider your response and any explanations offered before issuing a notice of my final decision. Let me know if you would like to schedule time to discuss.

V/r,

Col McDaniel

MICHAEL T. MCDANIEL, Colonel, USAF

SAF/CO Air Force Chief Data Office

Deputy Chief Data Officer

1600 Air Force Pentagon, Room 5E811

Email: michael.mcdaniel.1@us.af.mil

Cell: 240-351-7843

Comm: (703) 692-9850 DSN: 222-9850

From: AKERMAN, MARTIN GS-15 USAF HAF SAF/SAF/CO <martin.akerman.1@us.af.mil>

Sent: Saturday, May 29, 2021 2:00 PM

To: Lawhead, Thomas J (Vulture) JR SES USAF AF-A8 (USA) <thomas.lawhead.1@us.af.mil>; Shoults, Michael R SES USAF AF-A5 (USA) <michael.r.shoults2.civ@mail.mil>; Nolta, Noel Christina (Christy) SES USAF SAF-MR (USA) <noel.nolta.1@us.af.mil>; Cole, Darren R (Virgil) Brig Gen USAF AF-A4 (USA) <darren.cole@us.af.mil>

Cc: Barnes, Wiley L Col USAF AF-A2 (USA) <wiley.barnes@us.af.mil>; Destefani, Charles L (Chuck) Col USAF DISA TO (USA) <charles.l.destefani.mil@mail.mil>

Subject: Radio Silence

Dear Mentors,

It is important that I tell you how much I appreciate your mentorship the last few months and the impact the MyVector Mentorship program has had on me. Please convey my sincere thanks to Ms. Jones-Heath, General Van Ovost, and MG Kremer for their valuable inputs and commitment to my growth.

I stand alone at one of the most difficult decision points in my life. I signed an Oath of Service and live my life by virtues – among them, offering an olive branch. I received an unwarranted Written Admonishment from a Colonel that Colonel Destefani asserts is a good man. The Chief Data Office staff and the Transparency of the Department of the Air Force are at the mercy of mismanagement and tyranny.

I am specifically concerned about our Military Officers and the effects my lawful actions in response to the retaliation will have. I have retained an attorney and she and her team will advise me to not have any contact with anyone. I am hoping that I have enough "credibility in the bank"(Gen Brown) with you as I write this final message before radio silence.

Very respectfully,

Martin

Attachment B

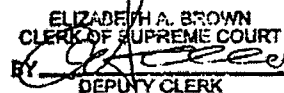
IN THE SUPREME COURT OF THE STATE OF NEVADA

MARTIN AKERMAN,
Petitioner,
vs.
NEVADA NATIONAL GUARD,
Respondent.

No. 86458

FILED


MAY 12 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER WAIVING FILING FEE

Petitioner is seeking a waiver of the filing fee for this original proceeding, asserting indigence and inability to pay it. Good cause having been demonstrated, the motion is granted. NRAP 21(g). No filing fee is due in this matter.

It is so ORDERED.

 C.J.
Stiglich

cc: Martin Akerman
Nevada National Guard

IN THE CIRCUIT COURT OF ARLINGTON COUNTY, VIRGINIA



CM23001237-00

MISC

F0

Martin Akerman, Pro Se,

Plaintiff,

V.

Scottsdale Insurance Company, et al

Defendants.

Case No. CM23-1237

JURY TRIAL DEMANDED

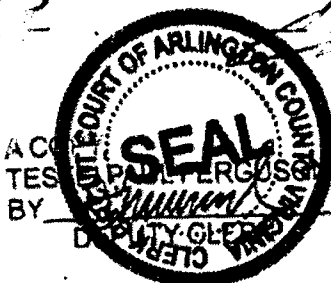
ORDER FOR PROCEEDING IN CIVIL CASE WITHOUT PAYMENT OF FEES/COSTS

Upon consideration of the Plaintiff's Complaint and the accompanying Verification, it is hereby
ORDERED that:

1. The Plaintiff's Complaint is deemed properly verified under oath.
2. The Plaintiff is granted leave to proceed in forma pauperis under VA.Code § 17.1-606(B).
3. The Clerk of Court shall issue the necessary summonses and shall serve a copy of the Complaint and summons upon the Defendants in accordance with the applicable rules and procedures.
4. The Defendants shall file a responsive pleading or motion within the time prescribed by the rules.
5. A pretrial conference shall be scheduled in due course.

Date

Judge



COURT ADDRESS:
1425 NORTH COURTHOUSE ROAD #6100
ARLINGTON, VA 22201
PHONE # :703-228-7010



OFFICIAL RECEIPT
ARLINGTON CIRCUIT COURT
CIVIL

DATE : 05/31/2023

TIME : 13:24:15

CASE # : 013CL2300224000

RECEIPT # : 23000005651

TRANSACTION # : 23053100036

CASHIER : DXM

REGISTER # : D325

FILING TYPE : CNTR

PAYMENT : FULL PAYMENT

CASE COMMENTS : AKERMAN, MARTIN v. SCOTTSDALE INSURANCE COM

SUIT AMOUNT : \$10,000,000.00

ACCOUNT OF : AKERMAN, MARTIN

PAID BY : AKERMAN, MARTIN

CASH : \$0.00

DESCRIPTION 1 : CNTR:CONTRACT ACTION

2 : PLAINTIFF: AKERMAN, MARTIN

3 : NO HEARING SCHEDULED

ACCOUNT CODE	DESCRIPTION	PAID
049	WRIT TAX (CIVIL)	\$0.00
106	TECHNOLOGY TRST FND	\$0.00
123	LEGAL AID SERVICES	\$0.00
147	INDIGENT ASSISTANCE (INA)	\$0.00
170	COURT TECHNOLOGY FUND	\$0.00

ACCOUNT CODE	DESCRIPTION	PAID
219	LAW LIBRARY	\$0.00
229	COURTHOUSE MAINTENANCE FEE (CHMF)	\$0.00
304	CIVIL FILING FEE (LAW & EQUITY)	\$0.00

TENDERED : \$ 0.00

AMOUNT PAID : \$ 0.00

Attachment C

FORM 6B. USERRA Notification Form

Form 6B
July 2020

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

USERRA NOTIFICATION FORM

Case Number: Appeal From DC-0752-23-0457-I-1 & S-1

Short Case Caption: Martin Akerman v. Dept. of the Army (MSPB)

Petitioner: Martin Akerman

Instructions: In a petition for review of a Merit Systems Protection Board decision, a petitioner is not required to pay the docketing fee or costs if the petitioner is claiming rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). See 38 U.S.C. §§ 4323, 4324. Please review the below statements and sign and submit this form if the underlying appeal at the Board involved a USERRA claim and you are pursuing your rights under USERRA on appeal. The signed original should be submitted within 14 days after the case is docketed.

CERTIFICATION OF USERRA APPLICABILITY

1. I certify that the petitioner is not required to pay the docketing fee or costs in this case because the underlying appeal at the Merit Systems Protection Board involved a USERRA claim and I am pursuing my rights under USERRA on appeal.
2. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. See 28 U.S.C § 1746.

Date: 6/15/20

Signature: _____

Name: _____

Martin Akerman

RECEIVED

JUN 22 2023

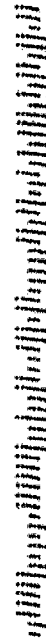
United States Court of Appeals
For the Federal Circuit

NOVA 220
15 JUN 23 PM 04

M. Akerman
2001 N Adams Street #440
Arlington, VA 22201

Jarrett B Perlow
717 Madison Place, NW
Washington, DC 20439

20439-



United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 23-5230**September Term, 2023****1:23-cv-02575-UNA****Filed On: November 14, 2023** [2026788]

Martin Akerman,

Appellant

v.

Sherri Doiron,

Appellee

ORDER

It is **ORDERED**, on the court's own motion, that this case be returned to the court's active docket. It is

FURTHER ORDERED, that the following briefing schedule will apply in this case:

Appellant's Brief

January 3, 2024

Appendix

January 3, 2024

This order does not preclude the court, after examining the briefs, from setting this case for oral argument. If the court resolves to decide the case without oral argument, an order will be issued disclosing the panel prior to issuance of a decision on the merits. All parties should include the following phrase on any subsequent pleading or brief filed in this case: "CASE BEING CONSIDERED FOR TREATMENT PURSUANT TO RULE 34(j) OF THE COURT'S RULES."

All issues and arguments must be raised by appellant in the opening brief. The court ordinarily will not consider issues and arguments raised for the first time in the reply brief. To enhance the clarity of their briefs, the parties are cautioned to limit the use of abbreviations, including acronyms. While acronyms may be used for entities and statutes with widely recognized initials, briefs should not contain acronyms that are not widely known. See D.C. Circuit Handbook of Practice and Internal Procedures 42 (2021); Notice Regarding Use of Acronyms (D.C. Cir. Jan. 26, 2010).

A request for appointment of counsel does not relieve appellant of the obligation to file responses to any motion filed by appellee or to comply with any order issued by the court, including a briefing schedule. Failure by appellant to respond to a dispositive motion or comply with any order of the court, including this order, may result in

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 23-5230

September Term, 2023

dismissal of the case for lack of prosecution. See D.C. Cir. Rule 38.

Parties are strongly encouraged to hand deliver the paper copies of their briefs to the Clerk's office on the date due. Filing by mail could delay the processing of the brief. Additionally, parties are reminded that if filing by mail, they must use a class of mail that is at least as expeditious as first-class mail. See Fed. R. App. P. 25(a).

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Laura M. Morgan

Deputy Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Case No. 23-5230 (Lead Case)

Related Cases: 23-1268, 23-5229

MARTIN AKERMAN, Pro Se,
Petitioner,

v.

SHERRI DOIRON, et al,
Respondents.

AFFIDAVIT IN SUPPORT OF MOTION TO PROCEED
WITHOUT FEES OR COURT COSTS / IN FORMA PAUPERIS

I, Martin Akerman, being first duly sworn, depose and state:

USERRA CLAIMS

20 CFR 1002.310 Considerations As per 20 CFR 1002.310, no fees or court costs should be charged against an individual claiming rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA). This provision is enacted to ensure individuals can assert their rights without monetary barriers.

- 20 CFR 1002.23(a)(3): The petition/appeal before the court partially or entirely stems from my enforcement actions of USERRA protections.

- 20 CFR 1002.23(a)(4): The petition/appeal before the court partially or entirely stems from testimonies or statements I delivered or the connections I had to one or more USERRA proceedings (Attachment A).
- 20 CFR 1002.23(a)(5): The petition/appeal before the court partially or entirely stems from my assistance or involvement in a USERRA investigation (Attachment B).

POVERTY CLAIM

I, Martin Akerman, Pro Se, declare that I am the Petitioner/Appellant in the above-entitled proceeding. In support of this motion to proceed on appeal without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to prepay the costs of said proceeding or to give security therefor. I believe I am entitled to relief. The issues that I desire to present on appeal/review are included herewith. Proof of Medicaid coverage since December 2022 (Attachment C).

Second Amendment Rights

I assert my rights under the Second Amendment and decline answering questions 1-9. Mandating a thorough financial worksheet is notably intrusive in this scenario. This could inadvertently grant an opposing militia access to privileged financial information, thereby infringing upon my Second Amendment rights.

Previous Approved IFP Applications

- IFP Approval in the Supreme Court of Nevada, while Petitioning for Writ of Habeas Corpus in the jurisdiction of General Garduno and the Nevada Air National Guard (Attachment D).
- IFP Approval in the Arlington Circuit Court, while in pursuit of remedy for breach of legal insurance contract (Attachment E).

Standard Form Responses

- No major expected changes in monthly income or expenses in the next 12 months. No payments have been or will be made to attorneys or non-attorneys concerning this case.

Other Required Information

- Legal Residence: Arlington, Virginia
- Contact Information: Phone: (202) 656-5601 | Age: 44 | Education: 20+ years

I swear or affirm under the penalty of perjury that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Respectfully submitted,



Martin Akerman, Pro Se
2001 North Adams Street, Unit 440
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Martin Akerman, Chief Data Officer of the National Guard
25 April 2022

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“JAN 24, 2022: COL Basler contacted Ms. Keasling regarding subject’s clearance issue. Mr. Keasling directed COL Basler to Ms. Kidd. Ms. Kidd reached out to COL Basler and confirmed COL Basler was part of the subject’s chain of command prior to providing subject’s clearance information.” 19

“JAN 31, 2022: Meeting conducted with the following attendees to discuss subject’s security status: Mr. McNeill, Susanne Kidd, COL Basler and Mr. Doyle. Ms. Kidd provided senior leaders with all details of SOR and clearance issue to include COAs for way forward. Mr. McNeill stated he would consult with other senior members of his team to make a decision on way forward.” 19

“FEB 2, 2022: Mr. McNeill and senior leaders made preliminary decision to suspend subject’s clearance based on information contained in the SOR regarding subject’s mental health issues and concern for National Security.” 19

“FEB 8, 2022: Mr. Berglund signs formal access suspension document.” 19

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On 16 October 2021, I contacted OSC to report that my record in the Army shows I have a service obligation until 10 December 2022. 21

On 19 January 2022, Mr. McNeill and I reported the double purchase of Advana capability (waste \$1.7M + \$4.5M) to Lt Gen Sasseville with a proposed way forward. 21

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On 25 March 2022, Ms. Kidd provided a timeline of events that evidences Retaliation for Whistleblowing (“Supporting Exhibits.pdf” pages 216-222) 23

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Key Documents

1. On 2 July 2021 I completed an interview for OSC disclosure (DI-21-0627) and prohibited personnel practice complaint (MA-21-1602) (“Supporting Exhibits.pdf” pages 107-109 & 110-123)

2. On 20 August 2021, I acknowledged and Air Force GC confirmed that I would be allowed to maintain my SECRET clearance throughout the SOR process. ("Supporting Exhibits.pdf" pages 157 -169)
3. On 30 August 2021, I sent a security clearance reprisal timeline to OSC "Supporting Exhibits.pdf" pages 183-185)
4. On 24 January 2022, I sent a timeline and requested ADR with General Garduno and Mr. Bill Popplar. ("Supporting Exhibits.pdf" pages 188-190)
5. On 26 January 2022, I picked up the re-issued SOR with a 24 March Due Date ("Supporting Exhibits.pdf" pages 210-215)
6. On 8 February 2022, I requested an extension to the SOR Due Date ("Supporting Exhibits.pdf" pages 243-244)
7. On 18 February 2022, I sent a FOIA request to the GSA OIG with a notarized timeline. ("Supporting Exhibits.pdf" pages 487-490)
8. On 19 February 2022, I sent a timeline to OSC for systemic investigation. ("Supporting Exhibits.pdf" pages 491-499 & 527-529)
9. On 25 March 2022, The National Guard Security Manager provided her own timeline to me via email. ("Supporting Exhibits.pdf" pages 216-222)

Background 1

10. On 11 September 2012, the Diplomatic Security Service granted me a SECRET clearance.
11. On 8 November 2019, the Department of Defense granted me a SECRET clearance.
12. On 9 April 2020, DoD closed investigation case # 2020278389.
13. On 16 April 2021, I was granted an interim TS clearance.
14. On 5 June 2021, I applied for CDO Position NCHT21080620221, NATIONAL GUARD BUREAU JOINT STAFF NGB-J6, C4 SYSTEMS AND CIO DIRECTORATE ARLINGTON, VA.

15. On 11 August 2021, after verification of my clearance NGB made me a tentative offer.
16. On 13 August 2021 at 10:03, TSgt Santa confirmed that I have an interim Top Secret clearance.

Background 2

17. On 12 September 2021, I transferred to the NGB Joint Staff.
18. On 15 September 2021, DCSA informed me that they are unable to provide records related to my clearance with the State Department. I promptly submitted a FOIA request with the State Department.
19. On 17 September 2021, I completed a Mental Status Evaluation. (attached on page 22)

**Air Force Actions: 12-17 August 2022, Falsified Revocation of
Access and Statement of Reasons, in Retaliation for Whistleblowing**

Specific Disclosures

20. On 2 July 2021 I completed an interview for OSC disclosure (DI-21-0627) and prohibited personnel practice complaint (MA-21-1602) ("Supporting Exhibits.pdf" pages 107-123)

20.1. COP/COS (Erycka Reid and Russ Jimeno) misalignment

20.1.1. 19 May 2021, Colonel McDaniel agreed to review PDs and the organizational structure with me at a meeting to be scheduled for 24 May 2021. Colonel McDaniel scheduled a "Feedback Meeting" for 24 May 2021 and I requested for us to include and discuss my concerns with the help of the Dispute Resolution service of Air Force District of Washington, in an effort to mitigate what I rightfully started to perceive to be an adverse action.

20.1.2. 20 May 2021, I was told that SF50s would be corrected after the merger with SAF/CN is completed.

20.1.3. 21 May 2021, I requested a meeting with Ms. Vidrine and Colonel McDaniel to discuss Position Descriptions, Unit Manning Document and Organizational Alignment for all COS staff.

20.1.4. DoDI 1400.25-V511 - DoD Civilian Personnel Management System: Classification Program - (3)(b) It is DoD policy that - DoD supervisors and managers who direct the work of an organizational unit are responsible and accountable for organizing work in an efficient, effective manner and for using resources to carry out the missions of their organizations. They will ensure that employees have copies of their PDs and will objectively, expeditiously, and fairly consider employee concerns over the accuracy of their PDs, the classification of their positions, and formal classification appeals.

20.1.5. AFD 36-1- Appropriated Funds Civilian Management and Administration (2.2.) All recruitment and placement programs must be in full compliance of Merit System Principles and avoidance of prohibited personnel practices. (2.3.) Assign duties and responsibilities to individual civilian positions to accomplish the air and space defense mission in an

orderly, efficient, and economical manner. (2.3.1.) Responsibilities of each position will be defined clearly and will not conflict with or duplicate the duties and responsibilities of any other position. (2.3.2.) Duties and responsibilities of each position will be adequately documented, certified as accurate by the supervisor, certified as properly classified by the classifier on AF Form 1003, Air Force Core Personnel Document, and maintained in the office exercising classification authority. (2.4.) Delegate civilian personnel management and administration authorities to the lowest practical level, unless prohibited by statute or other governmental regulations and guidance applicable to the Air Force.

- 20.1.6. AFI 36-1401- Civilian Position Classification - (1.3.) SCPDs. The Air Force Standard Core Personnel Documents (SCPDs) are mandatory for use when the SCPD appropriately describes the duties of the position as determined by Air Force Personnel Center (AFPC). (2.6.) Managers and Supervisors shall: (2.6.1.) Define duties, responsibilities and authorities to positions to achieve optimum balance of economy, effectiveness, productivity in conformance with the objectives of sound position management and organizational structure. (T-0). (2.6.2.) Consider the impact on all other positions before assigning new duties to any position that will result in a grade change. (T-3). (2.6.3.) Advise the servicing manpower and personnel offices and other appropriate staff offices promptly of proposed organizational and position changes and furnish organization charts and other material pertinent to the change. (T-3). (2.6.4.) Prepare accurate position descriptions (CPD/Core Personnel Document/SCPD/Standard Core Personnel Document) using AF Form 1003 for subordinate positions in a current approved AF format. The responsibility for accuracy and adequacy of the description of duties must not be regarded lightly. Duty descriptions serve as a basis for setting pay and the commitment of public funds. Implement applicable SCPDs. (T-1). (2.6.5.) Maintain familiarity with the classification and qualification standards for those occupations that constitute the core of the subordinate organization. (T-3). (2.6.6.) Maintain current CPDs/SCPDs for subordinate positions and provide CPDs/SCPDs to employees. (T-1). (2.6.7.) Advise employees of their assigned duties and responsibilities, grade controlling aspects of their positions, their right to review classification standards, and their grievance and classification appeal rights. (T-0). (2.6.8.) Review CPDs/SCPDs at least annually with employees to ensure the CPD/SCPD contains an accurate and adequate statement of each major duty currently assigned and performed. Ensure CPDs/SCPDs are updated while the

position is occupied to minimize impact to hiring timeline. (T-3). (2.6.9.) Review draft classification standards and guides for accuracy and adequacy of occupational information and impact on the grade level of subordinate positions when requested. (T-0). (2.6.10.) Support the classification program by explaining and supporting classification decisions to employees. (2.6.11.) Ensure CPDs/SCPDs (AF Form 1003) are signed by a supervisor in the position's chain of command. (T-0). (2.6.12.) Participate in the classification process by providing the personnel specialist the necessary information to determine the classification of all new and changed positions.

- 20.1.7. AFI 36-129 - Civilian Personnel Management and Administration (2.13.) Functional Managers and Comptrollers should: (2.13.2.) Assist managers and supervisors with managing the Unit Manpower Document. (2.13.3.) Develop and defend a Civilian Employment Plan that effectively consolidates funding, utilization, and projections for civilian resources. (2.13.4.) Design position structures that blend the skills and assignments of employees with the goal of successful mission/program/budget objectives. (2.13.5.) Develop the financial management Execution Plan, which is the principal vehicle used to identify projected execution for the upcoming fiscal year. The execution plan assesses the organization's funding requirements necessary to meet the Civilian Employment Plan. (2.19.3.) Each first-level supervisor will maintain records and files as prescribed in this Instruction. Higher-level supervisors will not maintain duplicate sets of records, unless approved locally by the head of the organization (for example, Civil Engineering Commander, Supply Commander, 3-letter Director, etc.). Each supervisor will ensure records are protected to ensure employee privacy. These responsibilities may not be delegated to administrative personnel.

20.2. Rule Violation on PGL and eSSS

- 20.2.1. It is policy to explain the views of others so that decision makers can have all the information they need to make decisions (Air Force Headquarters Operating Instruction 33-3). I observed a PGL coordination document (Staff Summary Sheet) without key "views of others".
- 20.2.2. On 12 May 2021, I directed Major Sullivan to include 3 specific views of others:

- 20.2.2.1. View of Congress and the Federal Audit/Evaluation community is that CDOs must be unbiased, unfettered, uninfluenced, and fully objective in performing change leadership and statutory reporting responsibilities. The Secretary of the Air Force formed SAF/CO as an independent SAF office in March of 2019 (PGL 18-21).
- 20.2.2.2. Title 44 U.S. Code § 3520 requires that the Chief Data Officer of the Department of the Air Force submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives an annual report on the compliance of the Department with the requirements of subchapter 3520. This Evaluation includes information on each requirement that the Air and Space Forces could not carry out and, if applicable, what the Department needs to carry out such requirements. One of these is an evaluation and report to Congress on the impact of the infrastructure of the Department on data asset accessibility and coordination with the Chief Information Officer of the Department to improve such infrastructure to reduce barriers that inhibit data asset accessibility. (requirement 10)
- 20.2.2.3. The Department of Defense is currently conducting an assessment of the establishment of the DoD CDO as independent from the DoD CIO, to serve as the Principal Staff Assistant for enterprise data management and data analytic issues. (Final Report Due: 1 July 2021)
- 20.2.3. 13 May 2021, I explained the importance of informing Air Force decision-makers on the role of the CDO in the eyes of Congress and the Audit/Evaluation community and I was ridiculed on the morning call for insisting on Views of Others to inform the merger. Ms. Vidrine and Colonel McDaniel rejected the "Views of Others"
- 20.2.4. 14 May 2021, the Acting Secretary of the Air Force ordered the merger of SAF/CO (CDO) and SAF/CN (CIO).
- 20.3. Ken Yale billing COS but working for COA
 - 20.3.1. Offices to where many SAF/COS and SAF/COP employees and salaries were diverted continue to work in other unauthorized offices. SAF/COA,

SAF/COD, SAF/COL do not exist as of this writing (1 July 2021) and staff still are told they work for these offices and not the ones for which they have been appropriated.

- 20.3.2. 5 USC § 5502 - Unauthorized office; prohibition on use of funds
(a) Payment for services may not be made from the Treasury of the United States to an individual acting or assuming to act as an officer in the civil service or uniformed services in an office which is not authorized by existing law, unless the office is later sanctioned by law.

- 20.4. Mentor email (May 29 - June 16) "Radio Silence" ("Supporting Exhibits.pdf" pages 23-28)

ME: "I stand alone at one of the most difficult decision points in my life. I signed an Oath of Service and live my life by virtues – among them, offering an olive branch. I received an unwarranted Written Admonishment from a Colonel that Colonel Destefani asserts is a good man. The Chief Data Office staff and the Transparency of the Department of the Air Force are at the mercy of mismanagement and tyranny."

COL MCDANIEL: "The disparaging remarks you made in the below email to Air Force senior leaders about SAF/CO are extremely unprofessional and cause damage to the credibility of the organization, the mission, and SAF/CO leadership. As your supervisor, I have a responsibility to address this misconduct. In accordance with AFI 36-704, I'm hereby proposing a formal written 2-year reprimand for conduct unbecoming a federal employee."

ME: "I would like to see you continue to develop as a leader, able to action lawful commands in support of our mission (10 USC 880, 890, 892, 1034). As highlighted below, I signed an Oath of Office and believe in putting the Constitution, laws, and ethical principles of the United States above private gain or desire to "protect the credibility of the organization, the mission, and SAF/CO leadership". I have witnessed fraud, waste, and abuse threatening to cause damage to SAF/CO and limit our ability to leverage data and limited resources in the age of great power competition."

COL MCDANIEL: "I am ready to inform you of my decision regarding this misconduct. As your supervisor, I am directing you to dial into the meeting titled "Decision Follow-up" tomorrow, 15 Jun 2021 at 1400. This is a mandatory appointment. Calendar invite to follow."

ME: "Sir, I am requesting the AFDW Dispute Resolution Service to be present. Also, Kindly requesting the heads of SAF/CO and SAF/CN to be present (Ms. Vidrine and Ms. Knausenberger)"

- 20.4.1. 24 May 2021 @1400 Hrs, Ms. Vidrine met with Col McDaniel and Human Resources and Ms. Vidrine told Col McDaniel to write an Admonishment.
- 20.4.2. 24 May 2021 @1630 Hrs, Colonel McDaniel rescheduled the “Feedback Meeting” to 25 May 2021. 25 May 2021, I arrived at the Pentagon to discuss PDs and organizational alignment and was surprised with a Written Admonishment intended to modify my behavior in the future (cause me to not question the mismanagement of SAF/CO (SAF/CND) and prevent me from reporting the violations), it was a corrective action and therefore is a covered personnel action for purposes of the Whistleblower Protection Act. (abuse of authority and fraud)
- 20.4.3. The Written Admonishment was a deliberate reprisal and corrective action for the lawful disclosure of information in a protected situation, where I reasonably believed there was and continues to be a violation of law, rule, and regulation. (10 USC 1034, 5 USC 2302). The manner in which members of the SAF/CO and SAF/AA staff responded to requests for information (several times with disinformation and threats) suggests that Colonel McDaniel and Ms. Vidrine involved additional staff in a conspiracy to alter and conceal records.
- 20.4.4. 5 USC 2302 - Prohibited personnel practices (a)(1)For the purpose of this title, “prohibited personnel practice” means any action described in subsection (b). (a)(2)(A)(iii)For the purpose of this section—“personnel action” means— an action under chapter 75 of this title or other disciplinary or corrective action; (a)(2)(D)“disclosure” means a formal or informal communication or transmission, but does not include a communication concerning policy decisions that lawfully exercise discretionary authority unless the employee or applicant providing the disclosure reasonably believes that the disclosure evidences—(i)any violation of any law, rule, or regulation; or (ii)gross mismanagement, a gross waste of funds, an abuse of authority (b)(8)(A)Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority—take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of—any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences— (i)any violation of any law, rule, or

regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, (b)(9)(A)(i) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority—take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of—the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation—with regard to remedying a violation of paragraph (8) (b)(9)(C) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority—take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of—(b)(9)(D) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority—take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of—(c)(1)(B) In this subsection—the term “whistleblower protections” means the protections against and remedies for a prohibited personnel practice described in paragraph (8) or subparagraph (A)(i), (B), (C), or (D) of paragraph (9) of subsection (b).

- 20.4.5. 10 USC § 129 - Civilian personnel management (a) The civilian personnel of the Department of Defense shall be managed each fiscal year primarily on the basis of and consistent with (1) the total force management policies and procedures established under section 129a of this title, (2) the workload required to carry out the functions and activities of the department, and (3) the funds made available to the department for such fiscal year. The management of such personnel in any fiscal year shall not be subject solely to any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees. The Secretary of Defense and the Secretaries of the military departments may not be required to make a reduction in the number of full-time equivalent positions in the Department of Defense except in accordance with the requirements of this section and section 129a of this title. (b) With respect to each budget activity within an appropriation for a fiscal year for operations and maintenance, the Secretary of Defense shall ensure that there are employed during that fiscal year employees in the number and with the combination of skills and qualifications that are necessary to carry out the functions within that budget activity as

determined under the total force management policies and procedures established under section 129a of this title.

- 20.4.6. 10 USC § 129a - General policy for total force management
- (g)(1)(A) Performance of Civilian Functions by Military Personnel.—Functions performed by civilian personnel should not be performed by military personnel except—if the Secretary of the military department concerned determines in writing based on mission requirements that the performance of such functions by military personnel is cost-effective, taking into account the fully-burdened costs of the civilian, military, and contractor workforces, including the impact of the performance of such functions on military career progression or when required by military necessity. (g)(1)(B) Performance of Civilian Functions by Military Personnel.—Functions performed by civilian personnel should not be performed by military personnel except—(if) such functions may be performed by military personnel for a period that does not exceed one year if the Secretary of the military department concerned determines that— (i) the performance of such functions by military personnel is required to address critical staffing needs resulting from a reduction in personnel or budgetary resources by reason of an Act of Congress; and (ii) the military department concerned is in compliance with the policies, procedures, and analysis required by this section and section 129 of this title. (g)(2) Performance of Civilian Functions by Military Personnel.—In determining the workforce mix between civilian and military personnel, the Secretary of a military department shall reserve military personnel for the performance of the functions that, in the estimation of the Secretary, are required to be performed by military personnel in order to achieve national defense goals or in order to enable the proper functioning of the military department. In making workforce decisions, the Secretary shall account for the relative budgetary impact of military versus civilian personnel in determining the functions required to be performed by military personnel.
- 20.4.7. 10 USC 1034 - Protected communications; prohibition of retaliatory personnel actions (b)(1)(B) PROHIBITION OF RETALIATORY PERSONNEL ACTIONS.— No person may take (or threaten to take) an unfavorable personnel action, or withhold (or threaten to withhold) a favorable personnel action, as a reprisal against a member of the armed forces for making or preparing or being perceived as making or preparing— a communication that is described in subsection (c)(2) and

that is made (or prepared to be made) to— (i) a Member of Congress; (ii) an Inspector General (as defined in subsection (j)) or any other Inspector General appointed under the Inspector General Act of 1978; (iii) a member of a Department of Defense audit, inspection, investigation, or law enforcement organization; (iv) any person or organization in the chain of command; (v) a court-martial proceeding; or (vi) any other person or organization designated pursuant to regulations or other established administrative procedures for such communications; or

(b)(1)(C)PROHIBITION OF RETALIATORY PERSONNEL

ACTIONS.— No person may take (or threaten to take) an unfavorable personnel action, or withhold (or threaten to withhold) a favorable personnel action, as a reprisal against a member of the armed forces for making or preparing or being perceived as making or preparing— testimony, or otherwise participating in or assisting in an investigation or proceeding related to a communication under subparagraph (A) or (B), or filing, causing to be filed, participating in, or otherwise assisting in an action brought under this section. **(c)(2)(B)INSPECTOR GENERAL INVESTIGATION OF ALLEGATIONS OF PROHIBITED PERSONNEL ACTIONS.**— A communication described in this paragraph is a communication in which a member of the armed forces complains of, or discloses information that the member reasonably believes constitutes evidence of— gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

20.5. Issue raised by Corey Speight around Equality (June 4 - June 16)

- 20.5.1.** 4 June 2021, A member of my team approached me about not being allowed to be on Enlisted Reserve orders in SAF/CO -- highlighting Ken Yale (Major Ken Yale) on Officer Reserve Orders in SAF/CO, inequality as it relates to him, and potential violation of 5 USC 5536 as he called into a meeting as a Civilian while on Reserve orders.
- 20.5.2.** Federal law (5 USC 5536) prohibits a Reservist on active duty from working in a civilian capacity with the government at the same time. A GS employee cannot concurrently receive pay for their civilian position while also executing active duty orders.

21. 11 August 2021 ADR with OSC

"I accepted the offer for employment with the National Guard Bureau (protection from future reprisal) and requested the following in ADR in order to close the matter at the Air Force (PPP 1-4): 1. The 2 records on my permanent employee file: These need to be removed completely as if they never happened. Deletion of any additional records that may be entered. 2. Legal Fees to date - \$1097 3. Student Loan Repayment: I want to be sure I am paid for the \$40,000 of loan repayment. I have completed a little under 2 years of the 3 years of service. a. Ideally, the full \$40,000 is paid without need for a final year of service (willing to give up Legal Fees if this route is taken) b. At a minimum I would want the amount proportional to the months of service as per my agreement (roughly \$25,000). \$10,000 was paid to date. 4. No further input from Ms Vidrine or her staff into my employee file."

22. 30 August 2021 ADR update and Security Clearance Timeline ("Supporting Exhibits.pdf" pages 154-156)

"Thank you for the congratulations and for helping to remove the reprisal through the ADR process (Item 1). I am excited to hit the ground at the NGB and was asked to help with the data issues we are facing across agencies during the handling of incoming refugees from Afghanistan. I have too much to transition and deliver and will not be taking leave between now and the new start date. For ADR, I am now requesting the full approved amount of the SF-52 submission (\$172,500) for tuition repayment, with any overage payable to me (ADR Request 3a - SF-52 attached). Presidential Policy Directive 19 (PPD-19) makes it unlawful for a federal agency to take any action affecting your access to classified information in reprisal for making a protected disclosure. Any officer or employee of an executive branch agency who has authority to take, direct others to take, recommend, or approve any action affecting an employee's Eligibility for Access to Classified Information shall not, with respect to such authority, take or fail to take, or threaten to take or fail to take, any action affecting an employee's Eligibility for Access to Classified Information as a reprisal for a Protected Disclosure."

Retaliatory Actions Affecting my Eligibility for Access to Classified Information

23. On 13 August 2021 at 10:09, TSgt Santa informed me that my interim TS clearance fell off.
24. On 17 August 2021 at 10:59, I contacted OSC to inform them that the Air Force was about to perpetuate retaliation through the transfer form SF-75 to the National Guard.
25. On 17 August 2021 at 12:09, OSC requested the "Radio Silence" email. ("Supporting Exhibits.pdf" pages 23-28)
26. On 17 August 2021 at 12:30, I was invited to an emergency meeting regarding my Security Clearance. I was told I would need a psychiatric evaluation by an unauthorized member of the staff (Major Sullivan).
27. On 17 August 2021 at 17:12, I was given an updated memo to replace the rushed memo stating that I may keep my Secret clearance throughout the SOR process.
28. On 18 August 2021, I signed the SOR and agreed to respond.

Agency Officials that Took Action

The Action was taken by Ms. Eileen Vidrine, Major Ryan Sullivan, and TSgt Luis Santa together with Mr. William Livingston, Division Chief of the Adjudications Directorate of the DOD CAF.

Ms Vidrine was copied in communications and has close friends in the DOD CAF dating back to her days as Chief of Staff for the Office of the Under Secretary of Defense for Intelligence.

29. On 20 August 2021, I received a letter from Air Force GC and the actual Security Manager (Dana Ceasar) saying that I was not at fault for the alleged missed responses to the DoD CAF. ("Supporting Exhibits.pdf" pages 167-169)
30. On 26 August 2021, I accepted the Formal Offer with the National Guard Bureau. Information Technology Specialist (Policy and Planning/Data Management), GS-2210-15, step 10 with the Office of the Chief of the National Guard Bureau, Joint Staff, NGB-J6, C4Systems and CIO Directorate in Arlington, Virginia.

Supporting Facts

31. I received responses to FOIA requests on 9 November 2021 and 11 January 2022. Neither return had anything but what was provided to me on 18 August. I have never seen the request for Medical Evaluation, dated 2 June, 2020, or the Extension Granted Due to Health protection Condition (HPCON) COVID-19. I am alleging these documents never existed, were deliberately kept away from me, or were forged to reflect that I somehow received them and requested an extension due to HPCON.
32. On 16 February 2022, I requested all records from the DOD CAF (FOIA Case DCSA-M 22-04185) as follows:

“I am requesting all Adjudication and Clearance Records for me under the purview of DCSA FOI/P Office for Adjudications. Specifically, the history of my clearance and any actions that may have been placed in my file. Also requesting all records related to my adjudication for Secret and TS clearances including but not limited to case numbers 2020278389 and 1920601174.”

National Guard Actions: 24 January - 8 February 2022, Tampering with Security Clearance Process, in Retaliation for Whistleblowing

Specific Disclosures

33. On 16 October 2021, I contacted OSC to report that my record in the Army shows I have a service obligation until 10 December 2022.
 - 33.1. The SF-75 from the Air Force specifically stated that I did not have a service obligation after 11 August 2021 ADR.
34. On 3 November 2021, I reported to management that one of our contractors is delivering sub-par work items and is often absent without notice. I self-reported that I discussed salaries of potential data scientists with the Project Manager.
 - 34.1. Later confirmed that the Contractor is providing services as a favor (violation of Anti-Deficiency).
35. On 8 November 2021, I instructed the NGB COR to halt all support to the CDO.
36. On 3 December 2021, I contacted NGB Ethics to escalate the report to management on 3 November 2021. I reported that the contractor refuses to remove the under-performing staff member and it is affecting the performance of everyone on the team. The contractor appears to be using my violation as a reason to keep things as they are. Contract support for CDO efforts has been at a standstill since 8 November.
37. On 14 December 2021, I discussed the contractor case with Legal and confirmed that we have a right to expect high-quality work from our contractors.
38. On 22 December 2021, I discovered and highlighted an additional \$4.5Million contract for ADVANA in need of consolidation.
39. On 6 January 2022, the Air Force informed OSC that they transferred my file to the Army. I agreed for the investigation and negotiations to continue with the Department of Defense and the Army.
40. On 19 January 2022, Mr. McNeill and I reported the double purchase of Advana capability (waste \$1.7M + \$4.5M) to Lt Gen Sasseville with a proposed way forward.

41. 26 January 2022, I informed COL Basler and Mr. McNeill that at 9:30am on 24 January, COL Basler falsely informed the Security Manager that he is in my chain of command and was given access to my security file.
42. 26 January 2022, I was informed by OPM eOPF that the Air Force documented a Termination instead of a Transfer on 29 October. I contacted OSC.
43. 11 February 2022 9:48AM, I found a report that shows that the FASA contract is billing work to the CDO outside of scope. I immediately ask Pamela Prince, COL Brett Basler, and Mr. McNeill to meet to discuss. On 11 February 2022, I requested a meeting with Mr. McNeill and Pamela Prince to discuss a document that proves that I did not harass a contractor (as alleged in writing on 19 January) and 2 slides that show that the Contract team (led by Ms. Prince) is still billing for work despite my request to halt on 8 November 2021 and our failure to put requirements into scope on 7 January 2022.
44. 11 February 2022 4:22PM, I contacted GSA OIG Hotline to report 3 violations of law, rule, and regulation related to the 19 January Letter of Counseling and the 11 February report.
 - 44.1. ANTI-DEFICIENCY: On 3 November, I submitted specific requirements for our data program and was told that all data requests fall outside of the existing scope and FASA was providing support as a favor.
 - 44.2. FRAUD: Between 17 December and 19 January, The NGB COR, Ms. Pamela Prince, worked with the GSA COR to fabricate a document from a contractor on the team through GSA and over to NGB alleging that I harassed her.
 - 44.3. FRAUD: On 19 January, I was issued a corrective counseling memo referencing the alleged harassment (AR 600-20 paragraph 4-19), designed to prevent me from reporting the wrongdoing.

Retaliatory Actions Affecting my Eligibility for Access to Classified Information

These events are quoted from Ms. Kidd's Timeline ("Supporting Exhibits.pdf" pages 216-222)

45. "NOV 26, 2021: Ms. Kidd sent email to subject's legal counsel advising that I [Ms. Kidd] spoke with the DODCAF customer service desk and they stated extension request was received and the action is currently with an adjudicator who will reissue the SOR. Reissue designates the process and due date will start over once the adjudicator reissues

the SOR. Subject will have another built in extension with new document. The DODCAF customer service desk stated that due to the holiday it may take another 5-7 days before extension action is entered into the system. Ms. Kidd notified subject and legal counsel that no action is due on Dec 1. Ms. Kidd stated she would notify subject once the new document was received.”

46. **“JAN 24, 2022: COL Basler contacted Ms. Keasling regarding subject’s clearance issue. Mr. Keasling directed COL Basler to Ms. Kidd. Ms. Kidd reached out to COL Basler and confirmed COL Basler was part of the subject’s chain of command prior to providing subject’s clearance information.”**
47. “JAN 25, 2022: Ms. Kidd emailed the DODCAF adjudicator to request reissue of SOR due to the SOR expired. JAN 25, 2022: DODCAF reissued the SOR. Ms. Kidd emailed subject. Subject advised he could not open email so he would come to office to retrieve documents.”
48. **“JAN 31, 2022: Meeting conducted with the following attendees to discuss subject’s security status: Mr. McNeill, Susanne Kidd, COL Basler and Mr. Doyle. Ms. Kidd provided senior leaders with all details of SOR and clearance issue to include COAs for way forward. Mr. McNeill stated he would consult with other senior members of his team to make a decision on way forward.”**
49. “FEB 1, 2022: Ms. Kidd provided brief and security documents to Mr. Poppler for HR purposes.”
50. **“FEB 2, 2022: Mr. McNeill and senior leaders made preliminary decision to suspend subject’s clearance based on information contained in the SOR regarding subject’s mental health issues and concern for National Security.”**
51. **“FEB 8, 2022: Mr. Berglund signs formal access suspension document.”**
52. “FEB 14, 2022: Mr. McNeill and COL Basler provide subject with access suspension documents and proposed suspension document. Subject sends email to Ms. Kidd stating he no longer had access to gov computer. Ms. Kidd advised Subject that he should still have access to computer.”

Agency Officials that Took Action

These events are quoted from Ms. Kidd’s Timeline (“Supporting Exhibits.pdf” pages 216-222)

53. "JAN 31, 2022: Meeting conducted with the following attendees to discuss subject's security status: Mr. McNeill, Susanne Kidd, COL Basler and Mr. Doyle. Ms. Kidd provided senior leaders with all details of SOR and clearance issue to include COAs for way forward. Mr. McNeill stated he would consult with other senior members of his team to make a decision on way forward."
54. "FEB 2, 2022: Mr. McNeill and senior leaders made preliminary decision to suspend subject's clearance based on information contained in the SOR regarding subject's mental health issues and concern for National Security."
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56. "FEB 14, 2022: Mr. McNeill and COL Basler provide subject with access suspension documents and proposed suspension document. Subject sends email to Ms. Kidd stating he no longer had access to gov computer. Ms. Kidd advised Subject that he should still have access to computer."

Supporting Facts

57. On 23 September 2021, I got in touch with Ms Kidd, Sematar Morris, and connected them with Ms. Ceasar. I expected that they would communicate the letter from 8/20 stating and confirming that the SOR matter is not my fault.
58. On 24 September 2021, Lt Gen Sasseville requested that I make Mr. McNeill my rater and him my High Level Reviewer on my performance plans. I am to be reporting to Mr. McNeill with a direct reporting line to Lt Gen Sasseville through the Director of Staff, as the CDO of the organization.
59. On 26 January 2022, I picked up the SOR and agreed to submit a Response back by 24 March (60 days). I informed Ms. Kidd that I had a favorable evaluation completed and was waiting for a FOIA request to return in order to respond to SOR. (included on page 22 & 23)
60. On 4 February 2022, I requested an extension to the response date from 24 March to 12 May due to date provided by FOIA request from the State Department.
61. "FEB 8, 2022: Mr. Berglund signs formal access suspension document."

- 61.1. “You confirmed seeing therapist/psychiatrist as outpatient after being released. You also started seeing counselor and psychologist in 2012, 2013-2018 (est). A request for your medical evaluation was sent to you in June 2020 to obtain professional medical opinion to determine if a condition exists to affect Judgment and/or reliability. No response received. You were granted an extension due to health protection condition in October 2021. To date, no response has been provided.” (“Supporting Exhibits.pdf” page 413 & 415) These statements are false, they are also recommended, proposed and decided by the same person in violation of due process.

Air Force and NGB Action: 26 January 2022, SF-50 invalidating my transfer to NGB and invalidating the Memo allowing me to maintain Secret Clearance, in Retaliation for Whistleblowing

Specific Disclosures

62. On 16 October 2021, I contacted OSC to report that my record in the Army shows I have a service obligation until 10 December 2022.
- 62.1. The SF-75 from the Air Force specifically stated that I did not have a service obligation after 11 August 2021 ADR.
63. On 19 January 2022, Mr. McNeill and I reported the double purchase of Advana capability (waste \$1.7M + \$4.5M) to Lt Gen Sasseville with a proposed way forward.
64. On 24 January 2022, I contacted Brig Gen Garduno about the corrective counseling memo.
65. On 24 January 2022, I contacted OSC to let them know I made contact with Brig Gen Garduno.

Retaliatory Actions Affecting my Eligibility for Access to Classified Information

66. 26 January 2022, I was informed by OPM eOPF that the Air Force documented a Termination instead of a Transfer on 29 October. I contacted OSC.

- 66.1. This action nullified the agreement to maintain my Secret Clearance throughout the SOR process. ("Supporting Exhibits.pdf" pages 157-169) – SOR response is not due until 12 May 2022.

Agency Officials that Took Action

Air Force and NGB HR officials. Listed Sheryl R Hysaw for the Air Force. Probably actioned by Mr. Bill Popplar in NGB HR.

Supporting Facts

67. On 16 October 2021, I contacted OSC to report that my record in the Army shows I have a service obligation until 10 December 2022.
- 67.1. The SF-75 from the Air Force specifically stated that I did not have a service obligation after 11 August 2021 ADR.
68. On 9 November 2021, OSC confirmed they are still working on the case with the Air Force.
69. 19 November 2021, Ms. Kidd claimed that my file was pulled from her queue
70. 26 November 2021, Ms. Kidd confirmed that the SOR will be re-issued and that no response is due
71. 29 December, Mr. McNeill demanded that I switch Lt Gen Sasseville out of the role of High Level Reviewer in my Performance Plan prior to signing it. He demands to be both Rater and High Level Reviewer for my Performance Plan.
72. 5 January, Mr. McNeill asks me about my security clearance and tells me that I can't fully perform my duties if I don't have my TS clearance.
73. 5 January, I reached out to Ms. Kidd to find out when the SOR will be re-issued.
74. 6 January, the Air Force informed OSC that they transferred my file to the Army. I agreed for the OSC investigation and negotiations to continue with the Department of Defense NGB and the Army.

75. 13 January, the National Guard Chief Information Officer Changed the title of my mid-year performance review meeting (19 January) to "Discussion_M1&CDO" and scheduled it for a later time in the day.
76. 14 January, I sent my draft mid-year review to Mr. McNeill.
77. 19 January, I was surprised by an unexpected corrective counseling memo related to alleged misconduct. I refused to sign and asked for copies of all materials.
78. 19 January, I contacted OSC to report the PPP, a falsified Counseling Memo. ("Supporting Exhibits.pdf" page 500)
79. On 25 March 2022, Ms. Kidd provided a timeline of events that evidences Retaliation for Whistleblowing ("Supporting Exhibits.pdf" pages 216-222)

Evaluation on 17 September 2021:

Martin Akerman <makerman.ngb@gmail.com>
To: "Drake, Emily" <EDrake@osc.gov>

Thu, Mar 3, 2022 at 9:58 AM

I did not submit it yet. SOR is due 12 May - I told Ms Kidd about it on 26 January.

I don't have the password for the document yet. I believe it is Enclosure 5 again from 14 Feb based on the title.

Thank you.

V/r,
Martin

On Thu, Mar 3, 2022 at 9:55 AM Drake, Emily <EDrake@osc.gov> wrote:

Hi Martin,

What is the document? Please send me a copy.

Also, I understand that you did undergo the requested psych eval. When did you provide a copy of that eval to the agency? Or will it be included in your response to the SOR that isn't due yet?

Kind regards,
Emily

...no abnormality noted in thought process or content. He is a highly intelligent professional working in an important area of national defense and security. He told me that the above challenge to his clearance resulted from his not receiving the SOR, which was sent to the wrong security manager, and that he has requested correction of that error.

Mr. Akerman was open in discussing his one hospitalization in 2012, which resulted in a discharge diagnosis of Psychotic disorder, not otherwise specified. His confused thinking with some delusional content occurred in a setting of severe marital tension, which was to result in a

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divorce and battle over custody of his young daughter, now nearing age twelve. He has not had any recurrence of that transient and brief psychotic episode. For years, he has not taken, nor needed, any psychotropic medication. In recent months, he enjoys working with his current relationship coach, Peter Klein, MSW, on self-worth and relationship issues. He feels in the past he "chose some bad partners," and that currently he is "happy being single" while maintaining active friendships and enjoying his daughter in shared custody with his ex-wife.

Summary and Professional Opinion. Mr. Akerman has had no recurrence of the brief psychotic episode he had in 2012, in the context of severe marital disharmony. He has excellent performance reports and character assessments from coworkers. Current mental status is good, and outlook and his dedication to his important work for our country are excellent. He does not now exhibit behavior or symptoms of an emotional, mental, or personality condition that may impair his reliability, judgment, or trustworthiness. In my professional opinion, he is fully eligible to maintain his security clearance.

Sincerely,



Brian Crowley, MD, DLFAPA