

No. 26A\_\_\_\_\_

**IN THE SUPREME COURT OF THE UNITED STATES**

**MARTIN AKERMAN, Applicant,**

v.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA, LAS VEGAS,

Respondent,

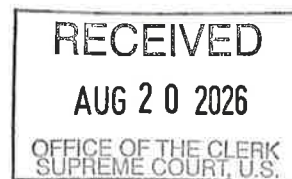
and HENRY J. KERNER, ET AL., Real Parties in Interest.

**ON APPLICATION TO EXTEND THE TIME TO FILE A PETITION FOR A WRIT OF  
CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH  
CIRCUIT**

**APPLICATION FOR A 30-DAY EXTENSION OF TIME TO FILE A PETITION FOR A  
WRIT OF CERTIORARI**

*To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and  
Circuit Justice for the Ninth Circuit:*

Applicant Martin Akerman, proceeding pro se, respectfully applies under 28 U.S.C. §§ 1254(1) and 2101(c), and Rules 13.5, 22, and 30 of this Court, for a 30-day extension of time to file a petition for a writ of certiorari to review the August 13, 2026 order of the United States Court of Appeals for the Ninth Circuit in No. 26-4931. The petition is presently due November 12, 2026. A 30-day extension would run through December 12, 2026; because that date is a Saturday, Rule 30.1 would make the operative filing date Monday, December 14, 2026.



## **JURISDICTION AND TIME TO FILE**

1. The Ninth Circuit entered the order to be reviewed on August 13, 2026. The order denied Applicant's petition for a writ of mandamus, denied all pending motions as moot, and stated that the court would not entertain further filings in the closed case. A copy is attached as Appendix A.

2. This Court would have jurisdiction under 28 U.S.C. § 1254(1). Under Rule 13.1 and 28 U.S.C. § 2101(c), the 90-day period ordinarily expires November 11, 2026. November 11 is Veterans Day, a federal legal holiday under 5 U.S.C. § 6103(a). Rule 30.1 therefore extends the present deadline to Thursday, November 12, 2026.

3. No petition for rehearing has been filed. In light of the panel's express direction that it will not entertain further filings in the closed case, Applicant conservatively calculates the certiorari period from the August 13 order. This application is filed more than 10 days before the present deadline.

## **BACKGROUND**

4. The mandamus proceeding arose during an unusual postjudgment interval in *Akerman v. Kerner*, No. 2:24-cv-01602-GMN-EJY (D. Nev.). Judgment was entered in February 2026. On March 1, 2026, Applicant filed ECF No. 93, “Motion for Reconsideration; Motion to Alter or Amend Judgment Pursuant to Fed. R. Civ. P. 59(e) re 91 Order on Report and Recommendation,” with a compliance certificate, index, six exhibits, certificate of service, and proposed order. The materials submitted with the mandamus petition reflected that the motion remained unresolved when the petition was filed, together with related status and supplemental filings. Under Federal Rule of Appellate Procedure 4(a)(4), a timely Rule 59 motion affects when a previously filed notice of appeal becomes effective.

5. The appellate history confirms why a settled postjudgment posture matters. In No. 25-1002, the Ninth Circuit dismissed an attempted appeal from the same Nevada action for lack of jurisdiction because the challenged magistrate-judge order was not final or appealable; mandate issued April 21, 2025. In No. 25-4331, the court denied mandamus without prejudice to a renewed petition if the district court did not address an April 17, 2025 reconsideration motion within 30 days; it later denied an extension request and directed that no further filings would be entertained. In No. 25-5501, the court denied a later mandamus petition for failure to demonstrate a clear and indisputable right and closed the case. These were predecessor proceedings, not the judgment now to be reviewed.

6. The mandamus record also identified postjudgment proceedings in *Akerman v. Nevada National Guard*, No. 2:24-cv-01734-RFB-DJA (D. Nev.). That action was closed after an April 14, 2025 final order and judgment, and a September 4, 2025 order denied reconsideration. On January 24, 2026, Applicant filed ECF No. 32, an emergency motion for relief from judgment under Rule 60(b) and to reopen the time to appeal under Federal Rule of Appellate Procedure 4(a)(6). ECF Nos. 33, 34, and 35 supplied supplemental authority, errata including an alternative notice of appeal, and newly unsealed material. Applicant does not represent that this second matter contains a Rule 59(e) motion.

7. Applicant argued below that the unresolved Rule 59(e) proceeding meant ordinary appellate review was not then effective and that later review might not reconstruct deleted submissions, native metadata, routing history, or changing administrative-record materials. Applicant alleged and documented rejection, removal, scheduled deletion, and alteration or reconstruction of administrative-record materials during the postjudgment interval. The requested mandamus relief was framed as preserving meaningful eventual appellate review, not predetermining the merits.

8. The Ninth Circuit panel—Judges Sidney R. Thomas, Marsha S. Berzon, and Danielle J. Forrest—held that Applicant had not demonstrated a clear and indisputable right to mandamus, citing *In re Mersho*, 6 F.4th 891, 897 (9th Cir. 2021), and *Bauman v. U.S. District Court*, 557 F.2d 650 (9th Cir. 1977). It denied the petition and all pending motions.

## **GOOD CAUSE**

9. Good cause exists for the limited 30-day extension. The requested period, through December 12, 2026, would give the District of Nevada a reasonable opportunity to enter final postjudgment orders in *Akerman v. Kerner*, No. 2:24-cv-01602-GMN-EJY, and *Akerman v. Nevada National Guard*, No. 2:24-cv-01734-RFB-DJA. Those rulings could clarify the finality and appellate posture of both Nevada matters and the availability and adequacy of ordinary appellate review.

10. Final postjudgment orders may narrow or eliminate questions that otherwise would have to be presented, clarify whether the preservation controversy continues to require this Court's review, and permit the petition to describe the completed Nevada record accurately. The brief extension would reduce the risk that the Court is asked to review a procedural posture that materially changes shortly after filing.

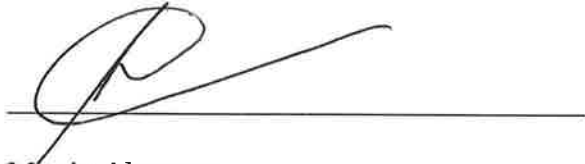
11. Applicant seeks no stay and no order directing either district court to act. This application is not a substitute petition for mandamus and does not ask the Circuit Justice to reach the merits. It asks only for 30 additional days so that the petition may account for final postjudgment rulings entered during that period. Because December 12, 2026 is a Saturday, Rule 30.1 makes Monday, December 14, 2026 the operative filing date.

## CONCLUSION

For these reasons, Applicant respectfully requests a 30-day extension of time. Applying Rule 30.1, the requested deadline would be Monday, December 14, 2026.

Respectfully submitted,

Dated: August 13, 2026

A handwritten signature in black ink, appearing to be 'M. Akerman', is written over a horizontal line.

Martin Akerman

Applicant, Pro Se

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## **APPENDIX TABLE OF CONTENTS**

Appendix A — Order of the United States Court of Appeals for the Ninth Circuit, No. 26-4931

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Appendix B — Order of the United States Court of Appeals for the Ninth Circuit, No. 25-5501

(Sept. 25, 2025) ..... App. 3

Appendix C — Order of the United States Court of Appeals for the Ninth Circuit, No. 25-1002

(Feb. 27, 2025) ..... App. 5

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 13 2026

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

In re: MARTIN AKERMAN,

MARTIN AKERMAN,

Petitioner,

v.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA, LAS  
VEGAS,

Respondent,

HENRY J. KERNER; et al.,

Real Parties in Interest.

No. 26-4931

D.C. No.

2:24-cv-01602-GMN-EJY

District of Nevada,

Las Vegas

ORDER

Before: S.R. THOMAS, BERZON, and FORREST, Circuit Judges.

Petitioner has not demonstrated a clear and indisputable right to the extraordinary remedy of mandamus. *See In re Mersho*, 6 F.4th 891, 897 (9th Cir. 2021) (“To determine whether a writ of mandamus should be granted, we weigh the five factors outlined in *Bauman v. United States District Court.*”); *Bauman v. U.S. Dist. Court*, 557 F.2d 650 (9th Cir. 1977). The petition is denied.

All pending motions are denied as moot.

This court will not entertain further filings in this closed case.

**DENIED.**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

SEP 25 2025

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

In re: MARTIN AKERMAN.

MARTIN AKERMAN,

Petitioner,

v.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA, LAS  
VEGAS,

Respondent,

HENRY J. KERNER; et al.,

Real Parties in Interest.

No. 25-5501

D.C. No.

2:24-cv-01602-GMN-EJY

District of Nevada,

Las Vegas

ORDER

Before: R. NELSON, SUNG, and H.A. THOMAS, Circuit Judges.

Petitioner has not demonstrated a clear and indisputable right to the extraordinary remedy of mandamus. *See In re Mersho*, 6 F.4th 891, 897 (9th Cir. 2021) (“To determine whether a writ of mandamus should be granted, we weigh the five factors outlined in *Bauman v. United States District Court.*”); *Bauman v. U.S. Dist. Court*, 557 F.2d 650 (9th Cir. 1977). The petition is denied.

All pending motions are denied as moot.

No further filings will be entertained in this closed case.

**DENIED.**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

FEB 27 2025

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

MARTIN AKERMAN,

Plaintiff - Appellant,

v.

HENRY J. KERNER; et al.,

Defendants - Appellees.

No. 25-1002

D.C. No.

2:24-cv-01602-GMN-EJY

District of Nevada,  
Las Vegas

ORDER

Before: CANBY, M. SMITH, and FORREST, Circuit Judges.

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the order challenged in the appeal is not final or appealable.

*See* 28 U.S.C. § 1291; *In re San Vicente Med. Partners Ltd.*, 865 F.2d 1128, 1131 (9th Cir. 1989) (order) (magistrate judge order not final or appealable).

Consequently, this appeal is dismissed for lack of jurisdiction.

All pending motions are denied as moot.

**DISMISSED.**

## **PROOF OF SERVICE**

I, Martin Akerman, declare under penalty of perjury that on August 13, 2026, I deposited in the United States Mail, addressed to the Clerk of the Supreme Court of the United States, one signed original and two copies of the foregoing application, together with the appendix and this proof of service, with first-class postage prepaid, as follows:

### **Clerk of the Court**

Supreme Court of the United States

1 First Street, N.E.

Washington, DC 20543

On the same date, I served one true and correct copy of the foregoing application and appendix on each recipient listed below. Except for the Merit Systems Protection Board, which was served electronically through MSPB e-Appeal, service was made by depositing each copy in the United States Mail with first-class postage prepaid:

### **1. Solicitor General of the United States**

Room 5616, Department of Justice

950 Pennsylvania Avenue, N.W.

Washington, DC 20530-0001

### **2. Clerk of Court**

United States District Court for the District of Nevada

Lloyd D. George United States Courthouse

333 Las Vegas Boulevard South

Las Vegas, NV 89101

**3. Bernard Doyle**

National Guard Bureau

111 South George Mason Drive

Arlington, VA 22204

**4. Colonel Brett Basler**

c/o Office of the Arkansas Attorney General

323 Center Street, Suite 200

Little Rock, AR 72201-2610

**5. Brigadier General Caesar Garduno**

c/o Office of the Nevada Attorney General

100 North Carson Street

Carson City, NV 89701-4717

**6. General Steven S. Nordhaus**

Chief, National Guard Bureau

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Washington, DC 20310-1000

**7. Henry J. Kerner**

Vice Chairman and Acting Chairman

U.S. Merit Systems Protection Board

1615 M Street, N.W.

Washington, DC 20419-0002

**8. Ken McNeill**

National Guard Bureau

111 South George Mason Drive

Arlington, VA 22204

**9. Merit Systems Protection Board**

Office of the Clerk of the Board

1615 M Street, N.W.

Washington, DC 20419-0002

Served electronically through MSPB e-Appeal in Docket No. DC-1221-22-0257-W-3.

**10. Jamieson Greer**

Acting Special Counsel

U.S. Office of Special Counsel

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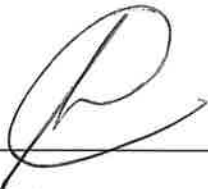
**12. William Poppler**

National Guard Bureau

111 South George Mason Drive

Arlington, VA 22204

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 13, 2026.



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Martin Akerman