

24A730

No. \_\_\_\_\_ (24A278, 24-443)

Supreme Court, U.S.  
FILED  
DEC 27 2024  
OFFICE OF THE CLERK

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In The  
*Supreme Court of the United States*

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MARTIN AKERMAN,  
CHIEF DATA OFFICER  
OF THE NATIONAL GUARD BUREAU, PRO SE

*Petitioner,*

v.

WARDEN,  
NEVADA AIR NATIONAL GUARD

*Respondent.*

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To the Honorable Chief Justice  
of the Supreme Court of the United States,  
and Circuit Justice for the Federal Circuit

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APPLICATION FOR A STAY

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

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DEC 31 2024  
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SUPREME COURT, U.S.

## QUESTIONS PRESENTED

- Whether the ongoing delay and procedural missteps in the Merit Systems Protection Board (MSPB) and Federal Circuit proceedings have caused irreparable harm to the petitioner's federal tenure and property rights under the Civil Service Reform Act (CSRA).
- Whether this Court should grant a stay pending resolution of jurisdictional and substantive errors, particularly where state military officers under federal direction have engaged in unlawful detention and forfeiture actions against the petitioner.
- In the alternative, whether this application should be treated as a petition for a writ of replevin to determine whether the Warden of the Nevada Air National Guard unlawfully holds custody of property and rights belonging to the petitioner.

## **RELATED SUPREME COURT CASES**

### Case No. 24-443

The petitioner, Martin Akerman, raised critical issues pointing to presumptive corruption in the Federal Circuit's handling of his appeal (Case No. 2024-130). Specifically, Akerman argued that the Federal Circuit's failure to recognize the correct filing date of May 20, 2024, and its reliance on subsequent Merit Systems Protection Board (MSPB) orders issued on May 29, 2024, improperly influenced the jurisdictional posture of his case. The petitioner also highlighted the court's refusal to correct the case caption, which misrepresented the nature of the appeal and undermined his ability to address critical federal tenure, due process, and whistleblower protection claims. Akerman seeks mandamus relief to rectify these procedural errors, prevent potential judicial misconduct, and ensure the integrity of related cases pending in multiple courts.

Case No. 24A430

In this case, the Petitioner raised concerns about the federalization of state military officers for detaining federal employees under the guise of national security, without judicial review.

Case No. 24A507

This case questioned whether FOIA denials and administrative barriers violated transparency and accountability rights essential for whistleblowers. It also highlighted the role of information as a tool for self-defense against disinformation, invoking modern interpretations of the Second Amendment.

Case No. 24-567

The Petitioner sought a writ of mandamus to address the cumulative procedural failures in the Seventh Circuit and Supreme Court, arguing that Rule 39.8 sanctions stigmatized legitimate claims. The case also stressed the need for judicial oversight in administrative processes that infringe on fundamental rights.

## JURISDICTION

This Court has jurisdiction under the All Writs Act, 28 U.S.C. § 1651(a), and Article III of the Constitution to issue a stay or writ of mandamus. In *Culley v. Marshall*, 143 S. Ct. 1203 (2024), this Court reaffirmed that federal courts possess broad equitable authority to address procedural deficiencies that compromise property rights and due process. Similarly, in *United States v. \$8,850 in U.S. Currency*, 461 U.S. 555 (1983), the Court underscored the necessity of judicial intervention to prevent irreparable harm arising from delays in administrative or judicial proceedings.

Alternatively, this Court may exercise its supervisory authority to address extraordinary circumstances that jeopardize the integrity of federal judicial and administrative processes, ensuring adherence to procedural fairness and constitutional protections.

## **APPLICATION FOR A STAY**

In determining whether to grant a stay or consider this application as a petition for a writ of error, this Court applies a balancing test that evaluates four critical factors: (1) whether the applicant has made a strong showing that they are likely to succeed on the merits; (2) whether the applicant will suffer irreparable harm absent a stay; (3) whether the issuance of the stay will substantially injure the other parties; and (4) where the public interest lies. These factors weigh decisively in favor of granting relief in this case.

Applicant, Martin Akerman, respectfully submits this Application for a Stay to address the jurisdictional and procedural deficiencies in Case No. 2024-130, culminating in the final order issued by the Federal Circuit on September 27, 2024 (Appendix A). This order not only failed to remedy errors stemming from the incorrect filing date but also dismissed and closed the case without addressing substantive claims related to federal tenure, due process, and whistleblower protections.

The cited order, which states that “no action will be taken on the submitted document, and the court will neither file nor respond to further requests for action in this closed case,” highlights the procedural roadblocks faced by the petitioner. These barriers necessitate this Court's intervention to prevent irreparable harm and preserve the applicant's rights under the Civil Service Reform Act (CSRA) and the Fifth Amendment.

#### Likelihood of Success on the Merits

The applicant has made a strong showing that they are likely to succeed on the merits of their claims. The Federal Circuit's final order of September 27, 2024 (Appendix A), dismissed Case No. 2024-130 without addressing the substantive issues raised by the petitioner. This procedural failure stems primarily from the court's refusal to recognize the correct filing date of May 20, 2024. By relying instead on subsequent Merit Systems Protection Board (MSPB) orders issued on May 29, 2024, the Federal Circuit improperly altered the jurisdictional posture of the case.

The petitioner's arguments are well-founded in statutory and constitutional law, particularly under the Civil Service Reform Act (CSRA), which safeguards federal tenure and due process rights, and the Fifth Amendment, which guarantees protection against arbitrary governmental actions. The applicant has further demonstrated how the Federal Circuit's actions have prejudiced their ability to address the procedural and substantive violations, including the following:

**Denial of Due Process Rights:**

The Federal Circuit allowed post-filing MSPB orders to shape the appeal, undermining the applicant's right to an impartial and timely review of their claims. Supporting evidence in Appendix B confirms the petitioner's compliance with Federal Circuit Rule 8(b) requirements and highlights procedural barriers that were improperly disregarded. These procedural missteps deprived the petitioner of a fair opportunity to present their case.



**Improper Dismissal Without Resolution of Claims:**

The final order closed the case without addressing key issues, including the applicant's whistleblower protections under the Whistleblower Protection Enhancement Act (WPEA) and the unlawful detention and forfeiture actions involving federalized state military officers. Records in Appendix C illustrate the petitioner's consistent efforts to rectify these procedural oversights, underscoring the Federal Circuit's failure to address material evidence.

**Violation of Established Precedents:**

As outlined in *Culley v. Marshall*, 143 S. Ct. 1203 (2024), procedural deficiencies that compromise property and due process rights warrant judicial intervention. Furthermore, under *United States v. \$8,850 in U.S. Currency*, 461 U.S. 555 (1983), courts are obligated to mitigate harm caused by delays and administrative barriers that infringe on fundamental rights. Appendix D provides further documentation of these violations. The intervention of this Court is both necessary and appropriate.

Irreparable Harm

Absent a stay, the applicant will continue to suffer irreparable harm that cannot be remedied by monetary compensation or later judicial action. The harm is multifaceted, including:

**Damage to Federal Tenure and Career:**

The ongoing procedural delays and jurisdictional missteps jeopardize the applicant's federal tenure and position as Chief Data Officer of the National Guard Bureau. These errors undermine the protections afforded under the Civil Service Reform Act (CSRA) and render the applicant vulnerable to continued administrative and judicial abuses.

**Constitutional Violations:**

The applicant has been denied procedural due process under the Fifth Amendment, as demonstrated by the Federal Circuit's reliance on improper post-filing MSPB orders and its dismissal of substantive claims. These constitutional violations compound over time, leaving the applicant without recourse to defend against unlawful actions.

**Unlawful Detention and Forfeiture:**

The actions of federalized state military officers under federal direction, including the unlawful detention and forfeiture of the applicant's property and rights, remain unaddressed. These actions cause ongoing harm to the applicant's professional reputation, personal well-being, and ability to seek timely judicial remedies.

**Precedent of Harm to Whistleblowers:**

As a whistleblower protected under the Whistleblower Protection Enhancement Act (WPEA), the applicant faces additional harm from the erosion of safeguards designed to protect individuals disclosing governmental wrongdoing. Without a stay, these protections are rendered ineffective, emboldening future procedural and substantive abuses against whistleblowers.

This Court has previously recognized that procedural deficiencies causing irreparable harm to constitutional and statutory rights justify immediate judicial intervention, as in *Culley v. Marshall*, 143 S. Ct. 1203 (2024), and *United States v. \$8,850 in U.S. Currency*, 461 U.S. 555 (1983). A stay is essential to prevent further irreparable harm and to preserve the applicant's rights while this Court evaluates the underlying claims.

No Substantial Injury to Respondents

Granting a stay will not cause substantial injury to the respondent, as the requested relief aims solely to preserve the status quo pending the resolution of significant procedural and jurisdictional errors. The respondent retains all defenses and procedural rights while the issues are adjudicated.

The stay will ensure that no further harm is caused by the Federal Circuit's improper reliance on post-filing Merit Systems Protection Board (MSPB) orders and will provide the petitioner with the opportunity to have their claims fully and fairly adjudicated. Furthermore, the respondent has no compelling interest that would justify denying the petitioner due process or preventing this Court from addressing the legal deficiencies that have impacted the petitioner's federal tenure and whistleblower protections.

### Public Interest

The public interest strongly supports granting a stay in this case. It involves critical questions regarding the protection of federal employees' rights, the accountability of federalized state military officers, and the enforcement of due process and whistleblower protections under federal law. Allowing these issues to remain unresolved undermines confidence in administrative and judicial systems tasked with safeguarding constitutional rights.

The merit system was established to ensure that federal employment decisions are based on qualifications, competence, and performance rather than political affiliation or favoritism. This principle replaced the spoils system, which often prioritized loyalty and political connections over merit, leading to widespread inefficiency and corruption. The erosion of the merit system risks a return to these practices, undermining public trust in federal institutions and discouraging skilled individuals from pursuing public service roles. Preserving the integrity of the merit system is essential to upholding fairness and professionalism in government employment.

This case is emblematic of the potential consequences of neglecting the merit system's protections. Whistleblowers like the petitioner play a vital role in maintaining governmental transparency and accountability, a cornerstone of the merit system. The erosion of these protections not only discourages disclosures of misconduct but also weakens institutional integrity, threatening the public's confidence in the rule of law.

Additionally, granting a stay aligns with the public's interest in ensuring adherence to procedural norms and preventing misuse of authority. This Court, in its prior considerations of whistleblower cases, including 24A507, recognized the vital role of information transparency and procedural fairness in protecting individuals who disclose governmental misconduct. The denial of certiorari in 24A507 highlighted the systemic challenges faced by whistleblowers, including barriers to accountability and the improper suppression of information essential for defending their rights.

This Court has repeatedly emphasized the importance of upholding due process and procedural fairness to prevent systemic harm, as in *Culley v. Marshall*, 143 S. Ct. 1203 (2024), and *United States v. \$8,850 in U.S. Currency*, 461 U.S. 555 (1983). By granting a stay in this case, the Court can reaffirm the foundational principles of the merit system, strengthen protections for whistleblowers, and ensure that federal employment decisions are governed by fairness and accountability.



**REASONS TO GRANT STAY OR  
CONSIDER THE PETITION  
AS A WRIT OF REPLEVIN**

This Court should grant a stay of the Federal Circuit's dismissal or, alternatively, treat this application as a petition for a writ of replevin under 28 U.S.C. § 1651(a), addressing the serious procedural and substantive issues raised by the petitioner.

1. Protection of Property and Rights

The petitioner alleges unlawful detention and forfeiture actions involving federalized state military officers under federal direction, which directly infringe upon their property rights and tenure as Chief Data Officer of the National Guard Bureau. A writ of replevin is appropriate to determine whether the Warden of the Nevada Air National Guard unlawfully holds custody of the petitioner's property and rights. Immediate action is needed to prevent further irreparable harm and restore the petitioner's constitutional and statutory protections.

### 2. Remedying Procedural Deficiencies

The Federal Circuit's failure to recognize the correct filing date and reliance on improper Merit Systems Protection Board (MSPB) orders has created substantial procedural obstacles. These errors have denied the petitioner a fair adjudication of their claims and deprived them of critical due process protections under the Fifth Amendment and the Civil Service Reform Act (CSRA). Judicial intervention is necessary to correct these procedural deficiencies and ensure the petitioner's rights are preserved.

### 3. Preventing Further Irreparable Harm

Without immediate intervention, the petitioner will continue to suffer irreparable harm, including the loss of federal tenure, violations of whistleblower protections, and unlawful detention of property and rights. A stay or writ of replevin is essential to prevent ongoing harm and ensure that the petitioner's claims are addressed in accordance with constitutional and statutory requirements.

#### 4. Alignment with Public Interest and Legal Precedents

The public interest is served by addressing the procedural and substantive injustices outlined in this case. Upholding due process, protecting whistleblowers, and ensuring that federalized state military officers operate within constitutional and statutory limits are matters of significant public importance.

This Court has recognized the necessity of judicial intervention in cases where procedural deficiencies compromise fundamental rights, as demonstrated in *Culley v. Marshall*, 143 S. Ct. 1203 (2024), and *United States v. \$8,850 in U.S. Currency*, 461 U.S. 555 (1983).

5. The Stay Promotes Judicial Integrity  
and Public Trust

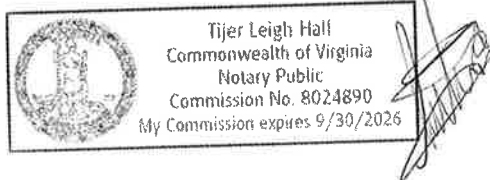
Granting a stay ensures that Applicant's claims are reviewed comprehensively and fairly, reinforcing public trust in the judiciary. Judicial oversight in this case serves to:

- **Hold Federal and State Actors Accountable:** Ensures that abuses of administrative authority are addressed.
- **Protect the Rule of Law:** Reinforces constitutional safeguards against arbitrary and unlawful government actions.
- **Promote Judicial Efficiency:** Prevents inconsistent rulings and redundancy across jurisdictions by coordinating related proceedings.

### CONCLUSION

For the reasons outlined above, the petitioner respectfully requests that this Court grant a stay of the Federal Circuit's dismissal or, in the alternative, treat this application as a petition for a writ of replevin under 28 U.S.C. § 1651(a). The requested relief is necessary to remedy procedural deficiencies, protect the petitioner's constitutional and statutory rights, and uphold the public interest in ensuring due process and accountability.

County/City of Arlington Respectfully Submitted Under Oath,  
Commonwealth/State of Virginia  
The foregoing instrument was acknowledged  
before me this 27<sup>th</sup> day of December  
2024, by Martin Akerman  
(name of person seeking acknowledgement) Martin Akerman, Pro Se  
2001 North Adams Street, 440  
Arlington, VA 22201  
Notary Public  
My Commission Expires: 09/30/2026



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In The  
*Supreme Court of the United States*

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MARTIN AKERMAN,  
CHIEF DATA OFFICER  
OF THE NATIONAL GUARD BUREAU, PRO SE

*Petitioner,*

v.

WARDEN,  
NEVADA AIR NATIONAL GUARD

*Respondent.*

---

**APPENDIX A: FINAL ORDER**  
**(September 27, 2024)**

The order dismissed the petitioner's appeal and closed the case without addressing the substantive claims related to federal tenure, due process, and whistleblower protections.

"No action will be taken on the submitted document, and the court will neither file nor respond to further requests for action in this closed case."



JARRETT B. PERLOW  
CLERK OF COURT

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

717 MADISON PLACE, N.W.  
WASHINGTON, D.C. 20439

CLERK'S OFFICE  
202-275-8000

September 27, 2024

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

**Re: Appeal No. 2024-130, In Re Martin Akerman**

Dear Mr. Akerman:

This letter responds to your submission received on September 16, 2024, and docketed as ECF No. 35 in connection with your petition, No. 2024-130.

On August 21, 2024, the court denied-in-part and dismissed-in-part your petition. On September 12, 2024, the court denied panel rehearing of that decision.

No mandate will issue in this matter, and the matter is now closed at this court. Therefore, no action will be taken on the submitted document, and the court will neither file nor respond to further requests for action in this closed case.

Sincerely,



Jarrett B. Perlow  
Clerk of Court

JP/ks

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In The  
*Supreme Court of the United States*

---

MARTIN AKERMAN,  
CHIEF DATA OFFICER  
OF THE NATIONAL GUARD BUREAU, PRO SE

*Petitioner,*

v.

WARDEN,  
NEVADA AIR NATIONAL GUARD

*Respondent.*

---

**APPENDIX B: PETITION FOR WRIT OF  
ERROR CORAM NOBIS**

The petitioner, Martin Akerman, submitted a petition for writ of error coram nobis to address procedural and jurisdictional errors in the Federal Circuit's handling of his case. This petition highlighted the mischaracterization of his filings, including the failure to recognize them as a writ of error and the improper reliance on post-filing MSPB orders.



Case No. 2024-130

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

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September 16, 2024

In Re:

[Federal Tenure of] Martin Akerman,  
Chief Data Officer of the National Guard Bureau

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**PETITION FOR WRIT OF ERROR AND/OR TO RECALL THE MANDATE**

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### **INTRODUCTION**

Petitioner, Martin Akerman, pro se, respectfully submits this petition for a writ of error coram nobis to correct fundamental errors in the proceedings that led to the dismissal of case 2024-230. The petitioner requests the Court to address the sua sponte filing error where the Court treated what should have been a petition for writ of error as a request for a panel rehearing, leading to a denial of substantive review that abridged the petitioner's right to petition under the First Amendment and negatively affected his Article III standing on the merits.

Additionally, petitioner asks the Court to allow the respondent with replevin jurisdiction over the appellant to raise a defense, and requests the Federal Circuit to either remedy the stay request gap or transfer the case to a court with replevin jurisdiction over the matters involved.

**FACTUAL AND PROCEDURAL BACKGROUND**

Case Posture on May 20, 2024

On May 20, 2024, Petitioner filed a timely appeal focusing on the protection of his property rights under the Civil Service Reform Act (CSRA) and challenging the procedural irregularities that had occurred up to that point. Subsequently, the Merit Systems Protection Board (MSPB) issued final orders on May 29, 2024, which were not in existence at the time of the May 20 filing. These final orders have created jurisdictional complexities that must be addressed.

Urgency in the matter is marked by a delay exceeding two years, significantly surpassing the 18-month threshold identified in *United States v. \$8,850* as warranting closer judicial examination. This comparison underscores a more pronounced deviation from due process norms, given that Mr. Akerman's delay occurred without substantial progress or the initiation of a formal hearing.

MSPB Abridging Right to Petition and Article III Standing

On May 29, 2024, the MSPB issued a series of final orders that did not exist on May 20, 2024. The timing of these final orders further raises questions about the MSPB's attempts to discredit or descope Petitioner's claims and should not undermine this Court's jurisdiction over the issues presented as of May 20, 2024.

Dispositive ORDER on August 21, 2024

This motion under review was filed in light of the Order issued by this Court on August 21, 2024 (ECF No. 28), which acknowledged the complexities of the jurisdictional issues and the excessive delays in resolving the matters at hand. The excessive delays in case DC-0752-22-0376-I-1 and the related appeals, as highlighted in the Motion for Stay Pending Appeal (ECF No. 22, filed July 8, 2024), and the Motion for Leave to File Complaint and Request for Injunction (ECF No. 26, filed August 5, 2024), have resulted in ongoing and irreparable harm to the Petitioner.

Sua Sponte Order on August 28, 2024:

On August 28, 2024, this Court issued an order (ECF No. 31) in which it sua sponte interpreted a filing by the petitioner as a request for panel rehearing, despite the petitioner's clear intention to file a petition for writ of error (ECF No. 32). This error in interpretation deprived the petitioner of the opportunity to properly raise legal and factual issues that, if reviewed under the correct legal standard, would have materially affected the outcome of the case.

**ERRORS ON REVIEW**

Jurisdictional Issues:

The case involves replevin jurisdiction due to the involvement of state military officers from Arizona, Arkansas, and Nevada in civil forfeiture actions initiated under federal direction. The MSPB's delays and jurisdictional confusion, including the issuance of final orders after the filing of an appeal, further complicated the petitioner's ability to secure judicial relief. The petitioner has made stay requests related to MSPB Case No. DC-0752-22-0376-I-1 and related appeals (ECF Nos. 22 and 26), which remain unresolved.

Mischaracterization of Filing:

The Court mischaracterized the petitioner's August 27, 2024, filing (ECF No. 32) as a request for panel rehearing instead of a petition for writ of error. This sua sponte decision failed to acknowledge the petitioner's clear intention to challenge fundamental procedural and jurisdictional errors that occurred during the proceedings. Specifically, petitioner's filing was aimed at correcting the wrongful dismissal of claims involving civil forfeiture actions by state military officers acting under federal directives, which were critical to petitioner's federal tenure and property rights under the Civil Service Reform Act (CSRA).

The mischaracterization of the filing led to a denial of substantive review of these key issues, including the MSPB's failure to address replevin jurisdiction and due process violations. The petitioner's arguments about delays exceeding two years, without a formal hearing or substantive progress, were ignored, exacerbating the harm caused by the unresolved stay requests and further violations of petitioner's First Amendment right to petition the Court for redress of grievances.

Doctrine of Res Judicata:

Additionally, the doctrine of *res judicata* is relevant in this case, specifically concerning the pending proceedings in the U.S. District Court for the District of Nevada (Case No. 2:24-cv-01602-GMN-EJY), requiring *de novo* review, ECF 24-2.

Jurisdiction over Arkansas in Nevada

An Order Captioning State Military Officers of Nevada and Arkansas (September 4, 2024), highlights 42 U.S.C. § 1983 jurisdiction over Brigadier General Garduno (Nevada) and Colonel Basler (Arkansas) is attached, see also ECF 24-1; see also *Akerman v. Department of Defense*, No. 1:22-cv-696 (LMB/WEF), 2022 U.S. Dist. LEXIS 200993, 2022 WL 16700832, at \*6 (E.D. Va. Nov. 3, 2022) (The District Court granted a motion to dismiss the employee's claims, including a claim related the agency's failure to repay his student loans, finding that it did not have jurisdiction over the matter under either the Civil Service Reform Act or the Whistleblower Protection Act and that it could not adjudicate the employee's hostile work environment claim because it was the subject of a pending Individual Right of Action appeal before the Board).

**LEGAL BASIS FOR RELIEF**

A writ of error coram nobis is an extraordinary remedy reserved for correcting fundamental errors that would have prevented the entry of judgment if known at the time of decision. Petitioner respectfully asserts that such errors occurred in this case due to the following:

Sua Sponte Misinterpretation:

The Court's sua sponte treatment of petitioner's filing as a request for panel rehearing rather than a petition for writ of error resulted in a denial of due process and deprived the petitioner of substantive legal review. This error impacted the petitioner's ability to raise defenses related to civil forfeiture and property rights, as well as defenses under 5 U.S.C. §§ 7513 and 7532. This deprived the petitioner of a meaningful opportunity to be heard.



Replevin Jurisdiction:

The failure to address the proper jurisdictional issues related to civil forfeiture actions executed by state military officers under federal directives further compounded the error. The respondent with replevin jurisdiction was denied the opportunity to raise defenses, and the petitioner was unable to fully litigate these issues under the appropriate jurisdiction.

Gap in Stay Requests:

Petitioner also highlights a critical gap in the Court's handling of stay requests filed in relation to whistleblower retaliation claims. These stay requests, which are central to the protection of petitioner's federal tenure and employment rights, were left unresolved, creating procedural gaps that have caused ongoing harm.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Recall the Mandate and Correct the Mischaracterization:** Recall the mandate and correct the sua sponte misinterpretation of Petitioner's filing (ECF No. 32) as a request for panel rehearing. Treat the filing as a petition for writ of error, and reopen case 2024-230 for substantive review, ensuring a proper review of the procedural and jurisdictional errors that occurred.
- B. Address Jurisdictional Issues and Transfer if Necessary:** Allow the respondent with replevin jurisdiction to raise defenses and determine if the case should remain within the jurisdiction of the Federal Circuit or be transferred to a district court with replevin jurisdiction, such as the U.S. District Court for the District of Nevada, where civil forfeiture actions related to state military officers in Arizona, Arkansas, and Nevada are already being litigated.
- C. Address the Doctrine of Res Judicata:** Examine the potential bar of res judicata and assess whether the ongoing proceedings in the U.S. District Court for the District of Nevada (Case No. 2:24-cv-01602-GMN-EJY) impact this case.

- D. Address the Consolidation of Cases:** Consider the consolidation of cases involving 42 U.S.C. § 1983 jurisdiction over Brigadier General Garduno (Nevada) and Colonel Basler (Arkansas), allowing all related claims to be resolved in a unified forum, thereby conserving judicial resources.
- E. Resolve Stay Requests:** Remedy the gap in stay requests that were filed in relation to whistleblower retaliation claims, ensuring that Petitioner's federal tenure and employment rights are adequately protected. The stay requests should be resolved as they are crucial to preserving the status quo while litigation progresses.
- F. Roll Back the Appeal Date to May 20, 2024:** Officially recognize the May 20, 2024 appeal date, ensuring that Petitioner's claims are reviewed as they stood at that time, before the issuance of final orders by the MSPB on May 29, 2024, which further complicated jurisdictional matters.
- G. Grant Any Further Relief:** Provide any other relief this Court deems just and proper to correct the significant procedural and substantive errors that have undermined Petitioner's ability to defend his federal tenure and property rights under the Civil Service Reform Act (CSRA) and other relevant statutes.

Certification and Closing

Pursuant to Rule 32(g)(1) of the Federal Rules of Appellate Procedure, I hereby certify that the text of the electronic version of the foregoing motion is identical to the paper copies, has been scanned by Google Drive and found to be virus-free, and that the textual portion of the motion, exclusive of any supporting affidavits and the certificates of service and compliance, but including headings, footnotes, and quotations, contains **1,545** words as determined by the word counting feature of Google Docs, and therefore complies with Rule 27(d)(2)(A).

Signature: \_\_\_\_\_



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2001 N Adams St, Unit 440  
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In The  
*Supreme Court of the United States*

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MARTIN AKERMAN,  
CHIEF DATA OFFICER  
OF THE NATIONAL GUARD BUREAU, PRO SE

*Petitioner,*

v.

WARDEN,  
NEVADA AIR NATIONAL GUARD

*Respondent.*

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**APPENDIX C: NOTICE OF STAY  
(MSPB Docket No. DC-1221-22-0257-S-3)**

On July 8, 2024, the petitioner filed a notice to inform the court of delays in addressing his stay requests, which were critical to safeguarding his federal tenure and due process rights. The notice outlined procedural barriers that exacerbated ongoing harm, including the court's failure to correct the case caption to accurately reflect the petitioner's status.

The denial of interim relief perpetuated the harm caused by jurisdictional delays and administrative misconduct.

**Martin Akerman v. Department of the Army**

**Docket # DC-1221-22-0257-S-3**

**Notice that a Stay will be filed, in compliance with Federal Circuit**

**Summary Page**

Case Title : Martin Akerman v. Department of the Army

Docket Number : DC-1221-22-0257-S-3

Pleading Title : Notice that a Stay will be filed, in compliance with Federal

Filer's Name : Martin Akerman

Filer's Pleading Role : Appellant

**Details about the supporting documentation**

#	Title / Description	Mode of Delivery
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Martin Akerman v. Department of the Army

Docket # DC-1221-22-0257-S-3

Notice that a Stay will be filed, in compliance with Federal Circuit Rule 8(b).

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Martin Akerman v. Department of the Army

Docket # DC-1221-22-0257-S-3

Notice that a Stay will be filed, in compliance with Federal Circuit  
Online Interview

1. Enter a brief title for your pleading.

Notice that a Stay will be filed, in compliance with Federal Circuit Rule 8(b).

---

2. Does your pleading assert facts that you know from your personal knowledge?

Yes

---

3. Do you declare, under penalty of perjury, that the facts stated in this pleading are true and correct?

Yes

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

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July 8, 2024

Arizona; Arkansas; and Nevada,  
ex rel. United States,

v.

Federal Tenure of Martin Akerman

Case No. 2024-130

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**MOTION FOR STAY PENDING APPEAL**

Pursuant to Federal Circuit Rule 8, Martin Akerman respectfully moves for a stay pending appeal of the Merit Systems Protection Board's (MSPB) order denying the motion to certify an interlocutory appeal. In support of this motion, the appellant cites a prior motion for a stay and provides the following:

**Motion for Stay of June 20, 2024**

In a previous motion for stay filed on June 20, 2024, in the case Arizona; Arkansas; and Nevada, ex rel. United States, v. Federal Tenure of Martin Akerman, Case No. 2024-130, the appellant, Martin Akerman, pro se, requested a stay of proceedings due to ongoing and substantial procedural and substantive issues impacting the resolution of his appeal. The motion highlighted the following key points:

**A. Case Caption Objections:** On June 15 and again on June 18, 2024, objections were raised regarding the case caption to ensure a correct and precise understanding of the involved legal matters.

**B. Docketing and Appeal:** The case was officially docketed on May 29, 2024, raising significant constitutional questions, particularly regarding due process rights and equal protection under the law.

**C. Request for Extension by MSPB:** On June 20, 2024, the MSPB was granted an extension to respond to an order issued by the court on June 13, 2024, introducing potential procedural errors into the proceedings.

**D. Request for Stay Not Addressed:** The request for stay of June 20, 2024, was not addressed. Final decision was rendered by MSPB in stay request DC-1221-22-0257-S-3, and Certificate of Appealability was DENIED on July 8, 2024, Tab 4 Attached.

#### **Notice to Parties**

The appellant has notified all parties that this motion will be filed, in compliance with Federal Circuit Rule 8(b), Tab 5 (copy of this Motion provided through MSPB eAppeal to all parties) of case DC-1221-22-0257-S-3.

#### **Motion Was Made in the Trial Court**

The appellant's initial motion for a stay pending appeal was denied by the MSPB on June 27, 2024. Given the immediate and ongoing harm resulting from delays, and the lack of an effective legal avenue within the MSPB for expeditious relief, it is not practicable to await a ruling by the MSPB. The Administrative Judge's statement in the denial of certification further supports the impracticality of awaiting a decision on the merits, stating that she plans to adjudicate the case expeditiously but does not offer immediate relief from the ongoing harm.

**Argument for Stay Pending Appeal**

The appellant respectfully asserts that the Administrative Judge does not have the legal authority to issue an expeditious decision in case DC-1221-22-0257-W-2 as she claims to have. This is evidenced by the complexities and delays inherent in related cases 2024-133, 2024-132, 2024-1912, 2024-1914, and 2024-1915.

The proper respondent is not a party to the case and the denial of the stay and interlocutory appeal further exacerbates these delays and harms. Therefore, a stay pending appeal, and dating back to DC-1221-22-0257-S-1 (February 28, 2022), is necessary to prevent irreparable harm to the appellant.

The MSPB order denying the certification of the interlocutory appeal highlights the importance of immediate review to prevent undue harm:

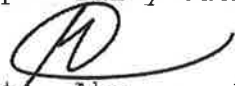
*"Granting the appellant's motion for certification of interlocutory appeal would only delay that process further and deny the appellant the review he is seeking."*

Given the ongoing harm and the appellant's right to timely and fair adjudication, a stay pending appeal is both justified and necessary.

**Conclusion**

For the foregoing reasons, the appellant respectfully requests that this court grant a stay pending appeal of the MSPB's order denying the motion to certify an interlocutory appeal.

Respectfully Submitted,



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

**UNITED STATES OF AMERICA  
MERIT SYSTEMS PROTECTION BOARD  
WASHINGTON REGIONAL OFFICE**

MARTIN AKERMAN,

Appellant,

v.

DEPARTMENT OF THE ARMY,

Agency.

DOCKET NUMBER  
DC-1221-22-0257-S-3 (S-3)

DATE: July 8, 2024

**ORDER DENYING MOTION TO CERTIFY INTERLOCUTORY APPEAL**

The appellant filed a stay request on June 17, 2024. AF, S-3, Tab 1. In a Stay Decision issued June 27, 2024, I denied the appellant's stay request. AF, S-3, Tab 2. Immediately thereafter the appellant filed a motion requesting that I grant certification of his interlocutory appeal of the stay decision. AF, S-3, Tab 3. For the following reasons, the certification request is DENIED.

The appellant wrote in his motion that certification of his interlocutory appeal should be granted because otherwise he would have to wait for review. AF, S-3, Tab 3. He added that delays continue to harm him. *Id.*

Pursuant to 5 C.F.R. § 1201.92, a ruling may be certified for interlocutory review only if the record shows that:

(a) The ruling involves an important question of law or policy about which there is substantial ground for difference of opinion; and

(b) An immediate ruling will materially advance the completion of the proceeding, or the denial of an immediate ruling will cause undue harm to a party or the public.

The appellant's motion fails on both prongs.

The appellant's focus of both his stay request and motion to certify interlocutory appeal was the delay in the process and the resulting harm. Yet, the

appellant failed to identify any important question of law or policy about which he is seeking review stating only:

Please certify for appeal. Absent the certification, this erroneous decision can typically only be considered on PFR. Delays continue to harm the Appellant.

AF, S-3, Tab 3.

Moreover, I find the delay about which the appellant complains in his motion will only be made longer by granting the appellant's motion. I plan to adjudicate this case expeditiously and issue a decision on the merits appealable to the Board and courts thereafter. Granting the appellant's motion for certification of interlocutory appeal would only delay that process further and deny the appellant the review he is seeking.

Based on the foregoing, I find the appellant has failed to establish a basis for granting certification of his request for interlocutory review. Thus, the appellant's request for interlocutory appeal is DENIED.

*Melissa Mehring*

FOR THE BOARD:

---

Melissa Mehring  
Administrative Judge

CERTIFICATE OF SERVICE

I certify that the attached Document(s) was (were) sent as indicated this day to each of the following:

Appellant

Electronic Service Martin Akerman  
Served on email address registered with MSPB

Agency Representative

Electronic Service Gonzalo Pinacho  
Served on email address registered with MSPB

Agency Representative

Electronic Service Justin Swick  
Served on email address registered with MSPB

07/08/2024  
\_\_\_\_\_  
(Date)

*Kiecia Payne*  
\_\_\_\_\_  
Kiecia Payne  
Paralegal Specialist



# Certificate of Service

e-Appeal has handled service of the assembled pleading to MSPB and the following Parties.

Name & Address	Documents	Method of Service
MSPB: Washington Regional Office	Notice that a Stay will be filed, in compliance with Federal Circuit Rule 8(b).	e-Appeal
Pinacho, Gonzalo	Notice that a Stay will be filed, in compliance with Federal Circuit Rule 8(b).	e-Appeal
Swick, Justin	Notice that a Stay will be filed, in compliance with Federal Circuit Rule 8(b).	e-Appeal

---

In The  
*Supreme Court of the United States*

---

MARTIN AKERMAN,  
CHIEF DATA OFFICER  
OF THE NATIONAL GUARD BUREAU, PRO SE

*Petitioner,*

v.

WARDEN,  
NEVADA AIR NATIONAL GUARD

*Respondent.*

---

**APPENDIX D: DENIED CAPTION  
(October 4, 2024)**

The Clerk informs Mr. Akerman that the Supreme Court is unable to assist with the matter presented, specifically regarding the case caption. The letter clarifies that the case captions in the Supreme Court are derived from the lower court opinions and the origin of the appeal. As the appeal in question originated from the United States Court of Appeals for the Federal Circuit and involved the Merit Systems Protection Board, the Court confirms that the respondent named in the application is accurate.

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

October 4, 2024

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

RE: Akerman v. Merit Systems Protection Board  
Update on Case Caption in USSC 24A278  
No: 24A278

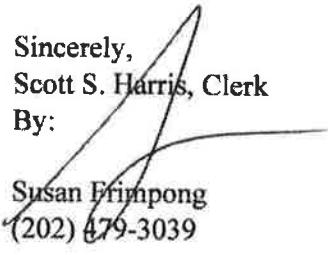
Dear Mr. Akerman:

In reply to your letter or submission, received September 30, 2024, I regret to inform you that the Court is unable to assist you in the matter you present.

Please be advised the case captions in this Court are dictated based on the lower court opinions and the origin of the appeal. The appeal from the United States Court of Appeals for the Federal Circuit originated from the Merit Systems Protection Board, therefore the respondent in the above referenced application is accurate.

Your papers are herewith returned.

Sincerely,  
Scott S. Harris, Clerk  
By:

  
Susan Frimpong  
(202) 479-3039

Enclosures

## **RULE 33.2 CERTIFICATION**

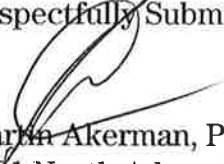
This motion complies with the Court's type-volume limitation as it contains 2,271 words, which is within the word limit for a motion to the Court.

10 copies were served on the Clerk in 8 ½ x 11 inch paper, stapled on the upper left-hand corner.

The text of this supplemental brief has been prepared in a proportionally spaced typeface using Google Docs in Century, 12 point font size.

Dated and respectfully submitted, this 27th day of December, 2024.

Respectfully Submitted,



Maria Akerman, Pro Se  
2001 North Adams Street, 440  
Arlington, VA 22201

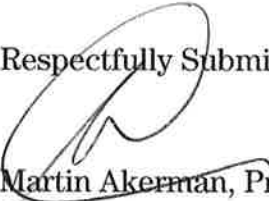
## PROOF OF SERVICE

I, Martin Akerman, certify that on the 23rd day of December 2024, I served the foregoing Application for a Stay and Appendices upon the Clerk of the Supreme Court of the United States by personal delivery to the Clerk's Office at 1 First Street, NE, Washington, DC 20543. An original and ten copies were provided, prepared in accordance with the Court's Rules. Service was completed upon receipt by the Clerk's Office.

Additionally, I served the Nevada Attorney General, the Solicitor General of the United States by Priority Mail, and the U.S. District Court for the District of Nevada (replevin case 2:24-cv-01734-RFB-DJA), and the U.S. Court of Appeals for the Federal Circuit (Cases 2025-107, 2024-146, and 2024-130), by ECF. I declare under penalty of perjury that the foregoing is true and correct.

Dated this 27th day of December, 2024.

Respectfully Submitted,



Martin Akerman, Pro Se  
2001 North Adams Street, 440  
Arlington, VA 22201



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