

**United States Court of Appeals  
District of Columbia Circuit**

333 Constitution Avenue, NW Washington, DC 20001-2866  
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Sai  
*Petitioner*

v.

Case Number: 14-1005

United States Postal Service (USPS)  
*Respondent*

**Supplement to Petitioner's Motion for Leave to File Motion to Proceed *in*  
*Forma Pauperis* and Appointment of Attorney *Ex Parte* Under Seal**

I believe my original motion may have been unclear, and so submit this supplement to clarify.

I do not ask that the motion *itself* be under seal. I grant that there is a public interest in e.g. knowing the number of cases that proceed *in forma pauperis*, and disclosure of the motion itself is only a minor imposition on my right to privacy.

Rather, my request is that I be permitted to file the *affidavit* in support of a 28 USC § 1915 motion under seal and *ex parte*. There is no public interest in knowing my personal finances, nor an adversarial interest. It would be likely unprecedented for the respondent to file an *opposition* to my motion to proceed *in forma pauperis*, as

it is a purely ministerial question, and one that is normally resolved during case initiation. Should the respondent have a legitimate reason to inquire into my finances, they can request a subpoena to do so.

The question at issue in this motion is essentially this: should a person seeking to exercise their rights under 28 USC § 1915 (or under 18 USC § 3006A) be required to disclose their personal finances (and their spouse's) to the public and/or to the opposing party?

I believe the answer to this question must be "no", as to so require would condition a litigant's right of equal access to the courts on their willingness to waive their right to equal protection of their right to privacy.

The information sought in an IFP affidavit is perfectly legitimate for a court to ask to determine whether an applicant qualifies for waiver of fees. However, it is also exactly the kind of information that is protected under privacy laws. Were it requested by a subpoena by the opposing party, it would be subject to a motion to squash.<sup>1</sup> A person seeking leave to proceed IFP should not be forced to in effect

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<sup>1</sup> Were a subpoena as to my personal finances requested by USPS in this case, it would be wildly inappropriate and nearly certain to be quashed for lack of any reasonable basis. I would be deprived of my due process right to oppose such disclosure if I am forced to disclose it as a condition of seeking to exercise a

preemptively disclose such information to the opposing party, let alone the public.<sup>2</sup>

To the best of my knowledge, this precise question is a matter of first impression in any circuit. However, the 1st Circuit ruled on a nearly identical question in *Boston Herald, Inc. v. John Connolly*, 321 F.3d 174 (2003), with respect to 18 USC § 3006A, and the questions of law at hand are not substantially different.

If the Court denies my motion and mandates that in order to file a petition to proceed *in forma pauperis* I must disclose my personal finances to the opposing party or to the public, I will be forced to pay the Court's fee, as I am unwilling to waive my right to privacy.

As this motion relates to case initiation within this Court, poses a constitutional question about this Circuit's ministerial procedures, and would cause a circuit split should the Court deny my motion, I respectfully ask that this Court rule on the motion itself, regardless of whether this case is transferred to the District Court (as

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statutory right.

<sup>2</sup> As an IFP affidavit requests the litigant's spouse's information, it would also deny their *spouse* — a third party — due process rights to defend their own privacy interests.

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alternatively proposed in my opposition to USPS' motion to dismiss).

Should the Court deny my motion, I respectfully ask that it do so with an opinion explaining how it disagrees with the 1st Circuit's opinion or distinguishes this question from the one ruled upon in *Connolly*.

Respectfully submitted,

Sai, *petitioner pro se*

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