

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT

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

\_\_\_\_\_ )  
 SHAWN MUSGRAVE )  
 and NASSER ELEDROOS, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 CLERK OF THE SUPERIOR COURT FOR )  
 CRIMINAL BUSINESS IN SUFFOLK COUNTY, )  
 in her Official Capacity; THE OFFICE OF THE )  
 ATTORNEY GENERAL, and THE OFFICE OF )  
 THE SUFFOLK COUNTY DISTRICT )  
 ATTORNEY, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

**MOTION TO TERMINATE ORDER OF IMPOUNDMENT**

Plaintiffs Shawn Musgrave, an investigative journalist, and Nasser Eledroos, a technologist focusing on government surveillance, hereby move to terminate the impoundment of the file in *In re Administrative Subpoena to Twitter, Inc.*, SUCR2011-11308. In that action, which arose out of the “Occupy Boston” protest of late 2011, an anonymous user of the Twitter social media platform objected to an administrative subpoena demanding disclosure of the user’s identity. Despite the fact that the case received widespread media attention at the time, the entire case file has been impounded for more than five years. Indeed, the clerk’s office has even responded to an inquiry about the case by stating that it does not exist.

Court records are subject to a “rigorous presumption of openness”—a presumption that requires a party seeking to maintain impoundment to bear the burden of showing “good cause.” *Boston Herald, Inc. v. Sharpe*, 432 Mass. 593, 608 (2000). Defendants cannot do so here because

the passage of five years has eliminated any potential state interest in secrecy, and because the public has a profound and ongoing public interest in government subpoenas that impinge on the First Amendment right to speak anonymously on issues of public concern. Accordingly, the order of impoundment should be terminated and the case file released.

In further support of this motion, Musgrave and Eledroos submit the accompanying memorandum of law and affidavit of Shawn Musgrave.

Accordingly, Plaintiffs Shawn Musgrave and Nasser Eledroos respectfully request that this Court issue an order:

1. Requiring the Clerk of the Suffolk Superior Court for Criminal Business to locate the file in *In re Administrative Subpoena to Twitter*, 2011-CR-11308; and
2. Terminating the order of impoundment and ordering the release of any and all materials in the case file to Plaintiffs.

SHAWN MUSGRAVE

By his attorneys,

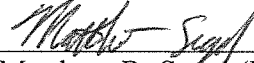


---

Jeffrey J. Pyle (BBO #647438)  
PRINCE LOBEL TYE, LLP  
One International Place, Suite 3700  
Boston, MA 02110  
(617) 456-8000 (tel.)  
(617) 456-8100 (fax)  
jpyle@princelobel.com

NASSER ELEDROOS

By his attorneys,



---

Matthew R. Segal (BBO #654489)

Jessie J. Rossman (BBO # 670685)

American Civil Liberties Union of

Massachusetts

211 Congress Street, 3rd Floor

Boston, MA 02110

(617) 482-3170 ex 337

[msegal@aclum.org](mailto:msegal@aclum.org)

[jrossman@aclum.org](mailto:jrossman@aclum.org)