

Victory for DOGE as appeals court reinstates access to personal data

A US appeals court ruled yesterday that DOGE can access personal data held by the US Department of Education and Office of Personnel Management (OPM), overturning an order issued by a lower-court judge.

The US government has “met its burden of a strong showing that it is likely to succeed on the merits of their appeal,” said yesterday’s ruling by the US Court of Appeals for the 4th Circuit. In a 2-1 decision, a panel of judges granted the Trump administration’s motion to stay the lower-court ruling pending appeal.

“The Supreme Court has told us that, unlike a private party, the government suffers an irreparable harm when it cannot carry out the orders of its elected representatives... Judicial management of agency operations offends the Executive Branch’s exclusive authority to enforce federal law,” wrote Court of Appeals Judge Steven Agee, a George W. Bush appointee.

Agee was joined by Judge Julius Richardson, a Trump appointee, in voting to grant the motion to stay pending appeal. Judge Robert King, a Clinton appointee, voted to deny the motion.

Judge “strongly” dissents

In a separate 8-7 vote, the full court denied King’s request for an *en banc* hearing. King’s dissent said:

Given the exceptional importance of this matter, I sought

initial en banc consideration of the government's motion for a stay pending appeal of the district court's award of preliminary injunctive relief—an injunction that bars the defendant federal agencies and officials from disclosing to affiliates of the President's new Department of Government Efficiency, or "DOGE," highly sensitive personal information belonging to millions of Americans. Regrettably, my request for initial hearing en banc has been denied on an 8-7 vote, and the panel majority has granted the government's motion for a stay pending appeal on a 2-1 vote. I strongly dissent from both decisions.

At stake is some of the most sensitive personal information imaginable—including Social Security numbers, income and assets, federal tax records, disciplinary and other personnel actions, physical and mental health histories, driver's license information, bank account numbers, and demographic and family details. This information was entrusted to the government, which for many decades had a record of largely adhering to the Privacy Act of 1974 and keeping the information safe. And then suddenly, the defendants began disclosing the information to DOGE affiliates without substantiating that they have any need to access such highly sensitive materials.

Yesterday's decision overturned a ruling by US District Judge Deborah Boardman in the District of Maryland. Plaintiffs include the American Federation of Teachers; the International Association of Machinists and Aerospace Workers; the National Active and Retired Federal Employees Association; the National Federation of Federal Employees; and the International Federation of Professional & Technical Engineers. There are also six individual plaintiffs who are military veterans.

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