

UNITED STATES TAX COURT
WASHINGTON, DC 20217

GREGORY SCOTT SAVOY,)	
)	
Petitioner,)	
)	
v.)	Docket No. 12316-12 L.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

Petitioner has filed a motion for a protective order. In light of his medical condition, petitioner anticipates “open public discussion about the case and the resulting denigrations upon” himself. Petitioner therefore asks the Court to order that the case proceed with himself named as “Anonymous”. We will deny the motion.

Background

This “collection due process” case under section 6330 was filed more than two years ago in May 2012. It was filed in petitioner’s name, and at that time he did not request that the case proceed anonymously. Petitioner has a medical condition that has sometimes been disabling--a fact that respondent does not dispute--and petitioner’s condition was named in his petition, which petitioner did not request the Court to file under seal. Since then, a total of 48 documents have been filed in the case, each bearing petitioner’s name in the caption, and many of them naming him throughout.

In February 2013 the Court received a mailing from petitioner that consisted of a letter to the judge with several attachments. The letter included medical information about petitioner, and the letter did not request any sealing or confidential treatment. Our order of February 13, 2013, directed that the mailing

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be returned to him, and the order named his medical condition. Petitioner thereafter contacted the Chambers of the undersigned Judge and requested that the Court seal the Order of February 13, 2013, because it identified petitioner's medical information. By order of February 19, 2013, we ordered that the Order dated February 13, 2013, was to be sealed. Since then, the Court's orders have not specified the name of petitioner's medical condition. Nonetheless, petitioner has chosen to make disclosures about his disability in his own unsealed subsequent filings in this case.

Petitioner recently learned from an Internet search that, in July and September 2013, he was named in two "sardonic blog posts" on the Internet. Those posts commented on this case and were occasioned by previous orders we have issued in this case. The blog posts did not name petitioner's medical condition.

Our own Internet search revealed that petitioner has maintained other, related litigation--not under seal--against the United States. See Savoy v. United States, No. 13-972 (D.C. D.C.). The June 2013 court opinion dismissing that case bears petitioner's name on the caption, quotes the complaint in referring to petitioner as "mentally disabled", and is available on the Internet. His complaint in that case--also publicly available on the Internet via PACER--gives details of his medical experiences and treatments.

On May 27, 2014, petitioner filed his motion for protective order. He asks to be allowed to proceed anonymously in this case, and he asks for this anonymous treatment to be granted retroactively to the beginning of this case in May 2012--two years and almost 50 filed documents ago. Second, he asks the Court to order third parties (or at least Tax Court practitioners) to give anonymous treatment in any reporting of the case.

Discussion

As has been stated by the Court of Appeals for the Fourth Circuit (to which an appeal of this case would lie), the "use of a pseudonym 'merely to avoid the annoyance and criticism that may attend * * * litigation' is impermissible." Company Doe v. Public Citizen, 749 F.3d 246, 275 (4th Cir. 2014) (citing James v. Jacobson, 6 F.3d 233, 238 (4th Cir. 1993)). Furthermore, "[p]seudonymous litigation undermines the public's right of access to judicial proceedings. The public has an interest in knowing the names of the litigants * * * and disclosing the parties' identities furthers openness of judicial proceedings". Id. at 273.

On the other hand, “Plaintiffs are often permitted to proceed anonymously in cases involving highly personal or sensitive matters such as * * * health conditions, including mental illness, the disclosure of which might lead to stigmatization or ostracism”, Whistleblower 14106-10W v. Commissioner, 137 T.C. 183, 195 (2011), and petitioner’s medical disability is such a matter.

However, petitioner’s request here comes with substantial complications: First, he has filed this motion after he himself has made repeated disclosures, on the unsealed public record here and elsewhere, of facts about his medical condition. Second, he asks for this anonymous treatment to be granted retroactively to the beginning of this case in May 2012--two years and almost 50 filed documents ago. Third, he asks the Court to order third parties (or at least Tax Court practitioners) to give anonymous treatment in any reporting of the case.

To the extent the motion asks for retroactive relief, it lacks merit. Petitioner effectively asks that his name be redacted from all prior documents in the record and replaced with “Anonymous”. But he has not submitted redacted or amended documents, and it would be a considerable task--and a task with little value, given the other information that is public (due in large part to petitioner’s actions). Even after our order of February 19, 2013, petitioner has chosen to make disclosures about his disability in his own unsealed filings in this case and elsewhere. Petitioners’ complaint about blog posts shows that information about this case is already available on the Internet, so that it is too late to squelch this information. We cannot unring this bell.

One of the factors considered by the courts in ruling on requests for protection of a litigant’s identity is whether the litigant’s identity has “thus far been kept confidential”. Sealed Plaintiff v. Sealed Defendant, 537 F.3d 185, 190 (2d Cir. 2008). See also Va. Dep’t of State Police v. Wash. Post, 386 F.3d 567, 579 (4th Cir. 2004) (“[O]nce announced to the world, the information lost its secret characteristic” (quoting In re Charlotte Observer, 921 F.2d 47, 50 (4th Cir. 1990) (vacating injunction prohibiting reporters from disclosing information revealed in open courtroom))). Petitioner has not kept confidential his identity and medical condition. This aspect of petitioner’s request in effect asks the Court to protect petitioner more than petitioner has attempted to protect himself--or even to protect petitioner from his own disclosures. We decline to do so.

We will also deny the motion to the extent it asks us, in effect, to impose any “gag” order or similar restriction on media discussion of this case. Apart from the

impediments of the First Amendment (assuring “freedom of speech [and] of the press”--freedoms surely valued by petitioner, given his profession), any attempt by the Court to do so would surely backfire by calling much more attention to this case than it would otherwise receive.

It is therefore

ORDERED that petitioner’s motion for a protective order is denied.

(Signed) David Gustafson
Judge

Dated: Washington, D.C.
August 11, 2014