26-6022 ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
AUG 14 2026
OFFICE OF THE CLERK

ELHADJ ALPHA MAHMOUD SOUARE,
Petitioner,
v.
SERGEANT K. SICKELS, OFFICER B. JOHNSON, DETECTIVE KEYES, JOHN DOES 1–3, and VILLAGE OF SILVER LAKE, OH,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITION FOR A WRIT OF CERTIORARI

Elhadj Alpha Mahmoud Souare
Petitioner, Pro Se
P.O. Box 7024
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QUESTIONS PRESENTED

1. Whether a district court's certification under 28 U.S.C. § 1915(a)(3) that an appeal is "not taken in good faith" is subject to *de novo* review, as the Seventh and Fifth Circuits hold, or abuse-of-discretion review, as the Sixth Circuit holds, where the circuits are intractably split on the standard of review for a statutory provision governing access to the federal courts for indigent litigants.
2. Whether a court of appeals may deny leave to proceed *in forma pauperis* on appeal by applying the "inability to pay" standard of 28 U.S.C. § 1915(a)(1) rather than the "good faith" standard of § 1915(a)(3), thereby conflating two distinct statutory requirements and denying appellate review without ever determining whether the appeal raises a nonfrivolous issue.
3. Whether a district court acts arbitrarily and capriciously in violation of the Due Process Clause when it simultaneously offers to reopen a case upon payment of fees and certifies under § 1915(a)(3) that an appeal would not be taken in good faith, where the two findings are logically irreconcilable.
4. Whether a district court violates procedural due process by denying a motion to proceed *in forma pauperis* without holding an evidentiary hearing, where the court has "strong reason to believe" the poverty affidavit is implausible.

LIST OF ALL PARTIES

Petitioner:
Elhadj Alpha Mahmoud Souare (appeared *pro se* below)

Respondents:
Sergeant K. Sickels, Silver Lake Police Department
Officer B. Johnson, Ravenna Police Department
Detective Keyes, Ravenna Police Department
John Does 1–3
Village of Silver Lake, OH
(No counsel entered an appearance for any respondent in the district court or court of appeals.)

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28 U.S.C. § 1915(e)(2)
42 U.S.C. § 1983

Rules

Fed. R. App. P. 24(a)
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OPINIONS BELOW

The order of the United States Court of Appeals for the Sixth Circuit denying Petitioner's motion to proceed *in forma pauperis* on appeal and ordering payment of fees or dismissal is reported at No. 26-3064 (6th Cir. August 10, 2026).
The opinion of the United States District Court for the Northern District of Ohio is reported at No. 5:25-cv-02674-JRA (N.D. Ohio Jan. 8, 2026) (Order Denying IFP and Dismissing Complaint).
Both orders are reproduced in the Appendix.

JURISDICTION

The order of the United States Court of Appeals for the Sixth Circuit was entered on **August 10, 2026**. This petition was postmarked on August 5, 2026, received on August 14, 2026, and resubmitted pursuant to Rule 14.5 within 60 days of the Clerk's notice dated September 21, 2026. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C. § 1915(a) provides in relevant part:

(1) Subject to subsection (b), any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor.

3) An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.

Fed. R. App. P. 24(a)(3) provides:

A party may file a motion to proceed on appeal in forma pauperis in the court of appeals within 30 days after service of the notice prescribed in Rule 24(a)(4). The motion must include a copy of the affidavit filed in the district court and the district court's statement of reasons for its action.

STATEMENT OF THE CASE

Petitioner Elhadj Alpha Mahmoud Souare, proceeding *pro se*, filed a civil-rights complaint under 42 U.S.C. § 1983 in the Northern District of Ohio on December 10, 2025, alleging that officers from the Silver Lake and Ravenna Police Departments conducted an unlawful traffic stop near 1325 Graham Road, Silver Lake, Ohio. He simultaneously moved to proceed *in forma pauperis* (IFP).

On January 8, 2026, the district court denied the IFP motion and dismissed the complaint. The court made two principal findings: (1) that Souare's poverty affidavit was "implausible on its face" because he listed no living expenses yet provided a phone number and owned a 2016 Dodge Caravan; and (2) that Souare's payment of filing fees in "at least nine other civil actions" since March 2025 demonstrated an ability to pay. The court never held an evidentiary hearing, never screened the complaint under 28 U.S.C. § 1915(e)(2), never ruled on the merits of the § 1983 claims, and never allowed service of process on the defendants.

In the same order, the district court certified pursuant to 28 U.S.C. § 1915(a)(3) that "an appeal from this decision could not be taken in good faith." Yet the court also stated that Souare could "move to reopen this case within thirty (30) days ... by paying the full filing fee of $405.00." The court thus simultaneously concluded that an appeal would be frivolous AND that the case warranted reopening if the fee were paid.

Souare filed a timely notice of appeal and a motion to proceed IFP on appeal. The district court denied the motion to proceed IFP on appeal by marginal entry on January 30, 2026.

The Sixth Circuit received the appeal (USCA No. 26-3064) and, on August 10, 2026, denied Souare's motion to proceed IFP on appeal. The Sixth Circuit recited the correct standard—that appellate IFP requires a showing of "good faith," meaning the appeal is "not frivolous" (*Coppedge v. United States*, 369 U.S. 438, 445-46 (1962))—but then immediately pivoted to analyzing the poverty affidavit's financial sufficiency. It held that because Souare failed to provide an affidavit specifically detailing his assets and establishing he was unable to pay the fee, there was no basis to argue the district court abused its discretion.

The Sixth Circuit gave Souare 30 days to pay a $605 filing fee or have the appeal dismissed for want of prosecution.

REASONS FOR GRANTING THE WRIT

I. The Circuits Are Split on the Standard of Review for § 1915(a)(3) Good-Faith Certifications

This Court should grant certiorari to resolve a deep and acknowledged circuit split over the standard of review for district-court certifications under 28 U.S.C. § 1915(a)(3).

The Seventh Circuit holds that a district court's good-faith certification is reviewed *de novo*. *Pate v. Stevens*, 163 F.3d 437, 439 (7th Cir. 1998). The Fifth Circuit likewise holds that appellate review of bad-faith

determinations is *de novo*. *Baugh v. Taylor*, 117 F.3d 197, 201 n.18 (5th Cir. 1997).

The Sixth Circuit takes the opposite view, applying an abuse-of-discretion standard. *Pointer v. Wilkinson*, 502 F.3d 369, 372 (6th Cir. 2007). Here, the Sixth Circuit deferred to the district court's factual findings regarding the poverty affidavit rather than independently assessing whether the appeal was nonfrivolous.

This split determines whether an indigent litigant receives meaningful appellate review of a certification that bars him from the courthouse door. Under *de novo* review, the court of appeals independently examines the record to ensure the district court did not arbitrarily cut off access. Under abuse-of-discretion review, the court of appeals rubber-stamps the district court's findings.

II. The Sixth Circuit Conflated Two Distinct Statutory Standards, Denying Appellate Review Without Ever Assessing Good Faith

The Sixth Circuit committed a second, independent error: it applied the district-court IFP standard (inability to pay under § 1915(a)(1)) to an appellate IFP motion (good faith under § 1915(a)(3) and Fed. R. App. P. 24(a)).

Section 1915(a)(1) governs the financial inquiry. Section 1915(a)(3) governs the merits inquiry: whether the appeal raises nonfrivolous issues. The Sixth Circuit recited the good-faith standard but then analyzed only poverty affidavit sufficiency. It never asked whether Souare's appeal raised nonfrivolous issues, such as whether the district court violated due process by dismissing a *pro se* complaint without a hearing, screening, or service.

III. The District Court's Self-Contradictory Certification Violated Due Process

The district court's certification under § 1915(a)(3) was logically impossible. In a single order, the court certified that an appeal could not be taken in good faith because the claims were frivolous, yet invited Souare to reopen the case by paying $405.00.

If the claims lacked an arguable basis in law or fact, reopening would be futile (*Neitzke v. Williams*, 490 U.S. 319, 325 (1989)). By offering to reopen, the court implicitly acknowledged the claims had sufficient merit to survive if the fee were paid. This implicit finding directly contradicts the explicit certification of no good faith.

IV. The District Court Denied IFP Without a Required Evidentiary Hearing

The district court denied Souare's IFP motion because it concluded the affidavit was "implausible on its face," but it never held a hearing to allow Souare to explain his finances, clarify the phone line, or address the vehicle's value. Well-established law holds that when a court doubts the veracity of a poverty affidavit, it must hold an evidentiary hearing before denying IFP.

V. The District Court's Factual Findings Rest on Unconstitutional Presumptions and Pure Speculation

1. **The "Nine Other Civil Actions" Inference: The court inferred that paying prior fees proved an ability to pay now, ignoring that indigent litigants often borrow money or pay fees through extreme hardship. Courts must assess current ability to pay, not past payment history.**

2. **The Phone Number Inference: The court assumed having a phone number implied an undisclosed paid utility expense, ignoring prepaid Lifeline phones or family assistance.**
3. **The 2016 Dodge Caravan Inference: The court faulted Souare for listing a 9-year-old vehicle without considering whether it was encumbered by debt or essential for transportation.**

VI. The Sixth Circuit Imposed a Fabricated $605 Filing Fee

The Sixth Circuit ordered Souare to pay a "$605 filing fee" within 30 days or face dismissal. This figure is erroneous: the appellate docketing fee is $505, and the district court fee is $405. Imposing an inflated fee places an unauthorized financial burden on an indigent litigant.

VII. This Case Is an Ideal Vehicle to Resolve These Questions

This case presents a clean, textbook example of how procedural shortcuts can extinguish an indigent litigant's access to the federal courts. The questions presented are fully preserved, cleanly presented, and recurring across circuits.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,
Elhadj Alpha Mahmoud Souare
Petitioner, Pro Se
P.O. Box 7024

Akron, OH 44306
Date: October 8, 2026

CERTIFICATE OF SERVICE

I, Elhadj Alpha Mahmoud Souare, hereby certify that on October 8, 2026, I served a true and correct copy of the foregoing PETITION FOR A WRIT OF CERTIORARI upon all parties required to be served under Supreme Court Rule 29, by placing same in first-class U.S. Mail, postage prepaid, addressed as follows:

Sergeant K. Sickels (#0607)

c/o Silver Lake Police Department
2961 Kent Road
Silver Lake, OH 44224

Officer B. Johnson
c/o Ravenna Police Department
220 Park Way
Ravenna, OH 44266

Detective Keyes
c/o Ravenna Police Department
220 Park Way
Ravenna, OH 44266

John Does 1–3
c/o Silver Lake Police Department
2961 Kent Road
Silver Lake, OH 44224

City / Village of Silver Lake, Ohio
c/o Silver Lake Police Department
2961 Kent Road
Silver Lake, OH 44224

I further certify that no counsel has entered an appearance on behalf of any respondent in the district court or the court of appeals, and all respondents are unrepresented.

Executed on this 8th day of October, 2026.
Elhadj Alpha Mahmoud Souare
Petitioner, Pro Se
P.O. Box 7024
Akron, OH 44306

