

MICHELE BECKWITH
Acting United States Attorney
MICHELLE RODRIGUEZ
Assistant United States Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN DOE,

Petitioner,

v.

PAM BONDI, ATTORNEY GENERAL OF
THE UNITED STATES, ET AL.,

Respondent.

CASE NO. 1:25-CV-00506-SAB

MOTION TO DISMISS AND STRIKE
UNLAWFULLY NAMED RESPONDENTS;
OBJECTION TO MOTION TO PROCEED BY
PSEUDONYM; AND STATEMENT OF NON-
OPPOSITION TO SEALING DOCUMENTS

A.

Pursuant to ECF 10, Respondent has no objection to Petitioner's motion to seal documents (filed via ECF 4).

B.

Hereby, Respondent objects to ECF 2 (Petitioner's motion to proceed by pseudonym). Petitioner's claim of "heightened risk of harm" — if his identity and facts underlying his § 2241 petition (demanding release *inter alia* pending removal proceedings) are not specially cloaked by concealment order — is false. On the one hand, as a matter of law, Petitioner's immigration court proceedings are non-public. On the other hand, by local rule in the EDCA, § 2241 immigration proceedings are similarly non-public and otherwise sealed. *See e.g.*, ECF 1, 4.

Against this background, the sole proffered reason for anonymity — the underlying basis for "deferral" relief from removal, *see* ECF 2 at 2 (citing CAT) — is merely a claim proffered in

immigration court. And, significantly, Petitioner — a non-citizen of the United States (whose country of origin is Mexico) — is merely a convicted drug trafficker. ECF 1 at 9-10. ECF 1-2 at 3-4. Indeed, the underlying federal criminal proceedings were public.¹ See SDTX 11-cr-522. Thus, he may not claim anonymity due to being under duress or threat for his offense(s) of conviction as, for example, a sex offender with a particularized or aggrieved victim.

On its face, pseudonym use is contrary to the general rule that anonymity via monikers interferes with the public's strong common law right of access to judicial proceedings and conflicts with Federal Rule of Civil Procedure 10. See *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1067 (9th Cir. 2000). Accord *Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185, 188–89 (2d Cir. 2008) (recognizing Fed. R. Civ. P. 10(a) “serves the vital purpose of facilitating public scrutiny of judicial proceedings and therefore cannot be set aside lightly”). The federal courts have well recognized that the use of pseudonyms in place of the true identities of the parties “runs afoul of the public's common law right of access to judicial proceedings ... a right that is supported by the First Amendment.” *Doe v. Del Rio*, 241 F.R.D. 154, 156 (S.D.N.Y. 2006) (citing Fed. R. Civ. P. 10 (a)’s requirement that proceedings, including the title of the complaint, must properly name all parties).

Also, Petitioner has failed his burden to show necessity to proceed by pseudonym. Petitioner — who must concede he is renowned for his public federal drug trafficking conviction (for which he was publicly sentenced to incarceration) — has failed to establish anonymity is necessary in the United States. *Does I thru XXIII*, 214 F.3d at 1068. See e.g., *Singh v. Scott, Slip Op.*, 2024 WL 3694238 (Aug. 7, 2024, W.D. Wash.) (denying § 2241 petitioner (proceeding collaterally to his immigration court removal proceedings), as in this case, leave to proceed by pseudonym for failure to establish risk of retaliatory harm, personal privacy concern, and risk of admission of criminal liability under *Does I thru XXIII*).

Moreover, Petitioner, as the party seeking to overcome the strong presumption in favor of public access, has failed his burden to “articulate[] compelling reasons supported by specific factual

¹ Petitioner is subject to removal under INA § 237(a)(2)(A)(iii) as having been convicted of an aggravated felony as defined in section 101(a)(43)(B) and section 237(a)(2)(B)(i), to wit: his 2011 conviction in the Southern District of Texas (SDTX) for possession of a controlled substance with intent to distribute in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A). See SDTX 11-cr-522, ECF 15, 27 (guilty plea pursuant to plea agreement, no co-defendants, and not under seal).

findings that outweigh the general history of access and the public policies favoring disclosure.” *See Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006). *See also Doe v. Deschamps*, 64 F.R.D. 652, 653 (D. Mont. 1974) (“[T]he public has a right of access to the courts. Indeed, lawsuits are public events, and the public has a legitimate interest in knowing the facts involved in them. Among those facts is the identity of the parties.”).

C.

Hereby, further, Respondent moves to strike unlawfully named respondents. In this matter, Petitioner has acknowledged he is detained at the Golden State Annex and that his custodian is the associated facility administrator. Accordingly, following *Doe v. Garland* and the plain text of § 2241 and § 2242, the facility administrator is the sole lawful party opponent. 109 F.4th at 1195 (“The plain text of the federal habeas implementation provision delineates that petitions must include the name of ‘the’ person maintaining custody over the petitioner, [28 U.S.C. § 2242], implying that there is typically only one proper respondent to a habeas petition.”) (citing *Rumsfeld v. Padilla*, 542 U.S. 426, 431 (2004) (stating that “[t]he consistent use of the definite article [“the”] in reference to the custodian indicates that there is generally only one proper respondent to a given prisoner’s habeas petition”)). Thus, Respondent moves to dismiss and to strike all other unlawfully named officials in the unlawful piecemeal petition under § 2241. 28 U.S.C. § 2242. *See Padilla*, 542 U.S. at 426; *Ortiz-Sandoval v. Gomez*, 81 F3rd 891, 894 (9th Cir. 1996). As explained by the Supreme Court in *Padilla*, the proper respondent in habeas cases “is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official.” *Padilla*, 542 U.S. at 435.

Dated: May 20, 2025

Respectfully submitted,
MICHELE BECKWITH
Acting United States Attorney

By: /s/ MICHELLE RODRIGUEZ
MICHELLE RODRIGUEZ
Assistant United States Attorney