THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
CINCINNATI DIVISION

M.K., M.R., and S.D.

Petitioner-Plaintiff,

v.

RICHARD JONES, Sheriff of Butler County, in his official capacity; **PAMELA BONDI**, Attorney General of the United States, in her official capacity; **KRISTI NOEM,** Secretary of the U.S. Department of Homeland Security, in her official capacity; **TODD LYONS**, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; **ROBERT LYNCH**, Director of the Detroit Field Office for U.S. Immigration and Customs Enforcement, in his official capacity.

Respondents–Defendants.

Case No. 25-281

PETITIONERS-PLAINTIFFS' MOTION TO PROCEED UNDER PSEUDONYMS

Petitioners-Plaintiffs ("Petitioners") respectfully request that the Court permit them to proceed under pseudonyms in this matter and allow their complaint, filed using initials through the Court's Electronic Case Filing (ECF) system, to remain on the public docket in that form.

1. Federal Rule of Civil Procedure 10(a) requires that a complaint state all of the names of the parties. Fed. R. Civ. P. 10(a).
2. Pseudonymous litigation is permitted where a plaintiff's privacy interests substantially outweigh the presumption of open judicial proceedings. The U.S. Court of Appeals for the Sixth Circuit has recognized this principle in *Doe v. Porter*, 370 F.3d 558, 560 (6th Cir. 2004).
3. The Sixth Circuit has expressly adopted the framework established in *Doe v. Stegall*, 653

F.2d 180, 185–86 (5th Cir. 1981), to assess whether a plaintiff may proceed anonymously. One key factor is whether the plaintiff is challenging governmental activity—a consideration that weighs in favor of anonymity, given the potential for retaliation, stigma, or other harm.

4. Petitioners are stateless Nepali-speaking Bhutanese refugees who were resettled in the United States more than a decade ago. They have experienced past persecution and fear future persecution or torture—including arbitrary detention and expulsion—based on their race, religion, nationality, actual or imputed political opinion, and membership in a particular social group.

5. These fears are well-founded. Public reporting confirms that refugees deported to Bhutan in the past month have been subjected to detention, interrogation, and expulsion. See Gaurav Pokharel, *Nepali-Speaking Bhutanese Refugees in Limbo After Deportation from US*, The Guardian (Apr. 21, 2025), https://www.theguardian.com/world/2025/apr/21/bhutan-nepal-us-immigration; Jordan Wilkie, *U.S. Deports 4 Pa. Nepali Bhutanese Refugees to Bhutan*, WESA (Mar. 28, 2025), https://www.wesa.fm/politics-government/2025-03-28/trump-deporting-nepali-bhutanese-refugees-pennsylvania. Others remain missing or in hiding in Nepal and India. *Id.* Public disclosure of Petitioners' identities would heighten the risk of retaliatory harm by government actors in Bhutan, Nepal, and/or India should they be removed.

6. Petitioners bring this action to prevent their imminent and unlawful removal without an opportunity to file motions to reopen based on materially changed country conditions. Litigating this case requires Petitioners to disclose deeply sensitive personal information, including past trauma and fear of future persecution. Disclosure of their identities would expose them to serious risks, undermining the very protections they seek through this litigation.

7. Permitting Petitioners to proceed pseudonymously poses little or no risk of unfairness to Defendants. Courts have routinely permitted anonymity under similar circumstances, particularly where the plaintiff's safety is at stake and the government can obtain their true identities under seal.

8. Critically, the Petitioners seek protection in the form of asylum, withholding of removal, and relief under the Convention Against Torture. The federal government protects the confidentiality of asylum-seekers by regulation. See 8 C.F.R. 208.6. According to the 2012 U.S. Citizenship and Immigration Services Asylum Confidentiality Fact Sheet, attached as Exhibit A, the reason for that protection is as follows:

> Public disclosure of asylum-related information may subject the claimant to retaliatory measures by government authorities or non-state actors in the event that the claimant is repatriated, or endanger the security of the claimant's family members who may still be residing in the country of origin. Moreover, public disclosure might, albeit in some limited circumstances, give rise to a plausible protection claim where one would not otherwise exist by bringing an otherwise ineligible claimant to the attention of the government authority or non-state actor against which the claimant has made allegations of mistreatment. Because refugee applicants face similar negative consequences when their information is disclosed to a third party, as a matter of policy, USCIS extends the same protections outlined in 8 CFR 208.6 to refugees.

9. Revealing the names of the Petitioners will subject them to the potential of serious retaliatory harm should they be removed from United States. Revealing their identities could subject them to significant danger if they are removed.

10. The risk of unfairness to Defendants is low or absent in this case. Under the Sixth Circuit's framework, courts permit pseudonymous litigation where the plaintiff's privacy interests substantially outweigh the presumption of open judicial proceedings. *Id.*

Upon order of the Court, Petitioners will file under seal—and provide to Defendants—a statement of the true names associated with the pseudonyms used in the complaint (ECF No. 1), which are:

a. Plaintiff M.K.;

b. Plaintiff M.R.; and

c. Plaintiff S.D.

WHEREFORE, Petitioners respectfully request that this Court:

1. Allow them to proceed pseudonymously in this action (using initials M.K., M.R., and S.D.);
2. Ensure that Petitioners are referred to by their initials on the docket, in all pleadings and other documents related to this litigation, and in all proceedings held before this Court;
3. Prohibit Defendants-Respondents from disclosing any personally identifying information that could lead to Petitioners' identification; and
4. Grant any other relief that the Court deems necessary and just.

Respectfully submitted,

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E-mail: brian@ocsilio.org

Counsel for Petitioner-Plaintiff

Dated: May 1, 2025

Exhibit A

CERTIFICATE OF CONFERENCE

I certify that pursuant to LR 7.1(a), Petitioners' counsel attempted to confer with counsel for Defendants-Respondents prior to filing by calling and faxing the United States Attorney for the Southern District of Ohio. Petitioners' counsel was not able to obtain a response prior to filing.

Respectfully submitted,

Brian J. Hoffman, Esq.
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Counsel for Petitioner-Plaintiff

Dated: May 1, 2025

Prepared by the USCIS Asylum Division
Date: October 18, 2012

Fact Sheet: Federal Regulation Protecting the Confidentiality of Asylum Applicants

Synopsis

The federal regulation at 8 CFR 208.6 generally prohibit the disclosure to third parties of information contained in or pertaining to asylum applications, credible fear determinations, and reasonable fear determinations—including information contained in RAPS or APSS[1]—except under certain limited circumstances. This regulation safeguards information that, if disclosed publicly, could subject the claimant to retaliatory measures by government authorities or non-state actors in the event that the claimant is repatriated, or endanger the security of the claimant's family members who may still be residing in the country of origin. Moreover, public disclosure might, albeit in rare circumstances[2], give rise to a plausible protection claim where one would not otherwise exist by bringing an otherwise ineligible claimant to the attention of the government authority or non-state actor against which the claimant has made allegations of mistreatment.

According to established guidance, confidentiality is breached when information contained in or pertaining to an asylum application (including information contained in RAPS or APSS) is disclosed to a third party in violation of the regulation, and the unauthorized disclosure is of a nature that allows the third party to link the identity of the applicant to: (1) the fact that the applicant has applied for asylum; (2) specific facts or allegations pertaining to the individual asylum claim contained in an asylum application; or (3) facts or allegations that are sufficient to give rise to a reasonable inference that the applicant has applied for asylum. The same principles generally govern the disclosure of information related to credible fear and reasonable fear determinations, as well as to applications for withholding or deferral of removal under Article 3 of the Convention Against Torture, which are included in the asylum application.

In the absence of the asylum applicant's written consent or the Secretary of Homeland Security's[3] specific authorization, disclosure may be made only to United States government officials or contractors and United States federal or state courts on a need to know basis related to certain administrative, law enforcement, and civil actions. In some instances, interagency arrangements have been established to facilitate the proper disclosure of asylum-related information to United States agencies pursuant to the regulation. The release of information relating to an asylum application, credible fear determination, or reasonable fear determination to an official of another government or to any entity for purposes not specifically authorized by the

[1]RAPS is the system for maintenance of records concerning aliens who affirmatively seek asylum by applying for the benefit with USCIS. APSS is the system for maintenance of records concerning aliens referred to a USCIS asylum officer for a credible fear or reasonable fear screening determination after having expressed a fear of return to the intended country of removal because of persecution or torture during the expedited removal process under INA sec. 235(b) or administrative removal processes under INA sec. 238(b) or INA sec. 241(a)(5).

[2] Public disclosure alone will rarely be sufficient to establish *sur place* protection claims under U.S. asylum laws. The applicant would have to establish, in light of this disclosure, that he or she has a well-founded fear of persecution on account of one of the protected grounds.

[3]By operation of section 1512(d) of the Homeland Security Act of 2002, Pub. L. 107-296, 116 Stat. 2135, 2310, the Attorney General's authority under 8 C.F.R. § 208.6(a) to authorize disclosure of confidential asylum information held by the former Immigration and Naturalization Service (INS)—and now held by the Department of Homeland Security (DHS)—was transferred to the Secretary of DHS.

regulation without the written consent of the claimant requires the express permission of the Secretary of Homeland Security.

Code of Federal Regulations, Title 8

Sec. 208.6 *Disclosure to third parties.*

(a) Information contained in or pertaining to any asylum application, records pertaining to any credible fear determination conducted pursuant to § 208.30, and records pertaining to any reasonable fear determination conducted pursuant to § 208.31, shall not be disclosed without the written consent of the applicant, except as permitted by this section or at the discretion of the Attorney General [now the Secretary of DHS].

(b) The confidentiality of other records kept by the [Immigration and Naturalization] Service [now DHS] and the Executive Office for Immigration Review that indicate that a specific alien has applied for asylum, received a credible fear or reasonable fear interview, or received a credible fear or reasonable fear review shall also be protected from disclosure. The Service [now DHS] will coordinate with the Department of State to ensure that the confidentiality of those records is maintained if they are transmitted to Department of State offices in other countries.

(c) This section shall not apply to any disclosure to:

(1) Any United States Government official or contractor having a need to examine information in connection with:

(i) The adjudication of asylum applications;

(ii) The consideration of a request for a credible fear or reasonable fear interview, or a credible fear or reasonable fear review;

(iii) The defense of any legal action arising from the adjudication of, or failure to adjudicate, the asylum application, or from a credible fear determination or reasonable fear determination under § 208.30 or § 208.31;

(iv) The defense of any legal action of which the asylum application, credible fear determination, or reasonable fear determination is a part; or

(v) Any United States Government investigation concerning any criminal or civil matter; or

(2) Any Federal, State, or local court in the United States considering any legal action:

(i) Arising from the adjudication of, or failure to adjudicate, the asylum application, or from a credible fear or reasonable fear determination under § 208.30 or § 208.31; or

(ii) Arising from the proceedings of which the asylum application, credible fear determination, or reasonable fear determination is a part.

Frequently Asked Questions

1. **Q: Why does the regulation protect asylum-related information from disclosure?**

   A: Public disclosure of asylum-related information may subject the claimant to retaliatory measures by government authorities or non-state actors in the event that the claimant is repatriated, or endanger the security of the claimant's family members who may still be residing in the country of origin. Moreover, public disclosure might, albeit in some limited circumstances, give rise to a plausible protection claim where one would not otherwise exist by bringing an otherwise ineligible claimant to the attention of the government authority or non-state actor against which the claimant has made allegations of mistreatment. Because refugee applicants face similar negative consequences when their information is disclosed to

a third party, as a matter of policy, USCIS extends the same protections outlined in 8 CFR 208.6 to refugees.

2. **Q: Under what specific circumstances can asylum-related information be disclosed to third parties?**

A: In general, asylum-related information must not be shared with third parties without the asylum applicant's written consent or the Secretary of Homeland Security's specific authorization. However, this general prohibition does not apply to the following limited circumstances as established by the regulation at 8 CFR 208.6:

(1) Any United States Government official or contractor having a need to examine information in connection with:

(i) The adjudication of asylum applications;

(ii) The consideration of a request for a credible fear or reasonable fear interview, or a credible fear or reasonable fear review;

(iii) The defense of any legal action arising from the adjudication of, or failure to adjudicate, the asylum application, or from a credible fear determination or reasonable fear determination under § 208.30 or § 208.31;

(iv) The defense of any legal action of which the asylum application, credible fear determination, or reasonable fear determination is a part; or

(v) Any United States Government investigation concerning any criminal or civil matter; or

(2) Any Federal, State, or local court in the United States considering any legal action:

(i) Arising from the adjudication of, or failure to adjudicate, the asylum application, or from a credible fear or reasonable fear determination under § 208.30 or § 208.31; or

(ii) Arising from the proceedings of which the asylum application, credible fear determination, or reasonable fear determination is a part."

3. **Q: To what extent may asylum-related information be disclosed to personnel within the Department of Homeland Security (DHS), such as Immigration and Customs Enforcement (ICE) or Customs and Border Protection (CBP) personnel?**

A: Asylum-related information may be disclosed to ICE and CBP personnel, as they are not considered "third parties" for the purposes of 8 CFR 208.6. Protected asylum-related information may also be disclosed to offices within the direct policy and legal chains of command of DHS, such as DHS Office of General Counsel, the Office of the Undersecretary for Border and Transportation Security (BTS), the Office of the Deputy Secretary, and the Office of the Secretary.

4. **Q: If none of the regulatory exceptions applies, what information about an asylum applicant, if any, may be shared with third parties without breaching confidentiality?**

A: According to established guidance, confidentiality is breached when information contained in or pertaining to an asylum application is disclosed to a third party in violation of the regulation, and the unauthorized disclosure is of a nature that allows the third party to link the identity of the applicant to: (1) the fact that the applicant has applied for asylum; (2)

specific facts or allegations pertaining to the individual asylum claim contained in an asylum application; or (3) facts or allegations that are sufficient to give rise to a reasonable inference that the applicant has applied for asylum. The same principles govern the disclosure of information related to credible fear and reasonable fear determinations. They also generally apply to applications for withholding or deferral of removal under Article 3 of the Convention Against Torture, which are included in the asylum application.

5. **Q: Under the regulation's exceptions, can asylum-related information be disclosed to state law enforcement agencies or other state agencies?**

   A: No. The confidentiality regulation does not allow disclosure of asylum-related information to state agencies, including state law enforcement agencies, except with the asylum applicant's written consent or the Secretary of Homeland Security's specific authorization. The regulation at 208.6(c)(2) do, however, allow for disclosure to state or local courts under certain circumstances.

6. **Q: Under the regulation, how can a United States Government official or contractor, who is seeking asylum-related information and to whom asylum-related information may be disclosed, obtain that information from the United States Citizenship and Immigration Services (USCIS)?**

   A: Unless there is a pre-existing interagency arrangement or protocol, government officials or contractors should request asylum-related information about specific aliens directly from the appropriate USCIS Asylum Office Director with jurisdiction over the alien's application. Requests for asylum-related information concerning groups of aliens that match certain identified criteria must be made to the Chief of the Asylum Division of USCIS by the appropriate official in the requesting agency.

7. **Q: If asylum-related information is properly disclosed to a third party pursuant to the regulation, what is the third party's obligation with respect to confidentiality?**

   A: As the new custodian of the asylum-related information, the third-party recipient is bound by the confidentiality regulation under 8 CFR 208.6. The recipient must not disclose the asylum-related information to other parties, except as authorized by the regulation.

8. **Q: What are the obligations of U.S. government officials or contractors who work with or are responsible for maintaining asylum-related information in U.S. government systems?**

   A: U.S. government officials or contractors who encounter asylum-related information in their work are bound by the confidentiality regulation under 8 CFR 208.6. These personnel must not disclose the asylum-related information to third parties, except as authorized by the regulation. When making an authorized disclosure of asylum-related information to a third party, these personnel should alert the third party to the confidentiality requirements of 8 CFR 208.6.

9. **Q: Are non-USCIS custodians of asylum-related information required to obtain authorization from USCIS before disclosing the asylum-related information to another party pursuant to the regulation?**

   A: No. However, the transmitter of information should take reasonable steps to ensure that the new recipient of information is aware of the confidentiality rules described in this document to prevent unauthorized disclosure by the new recipient. The transmitter may want to provide the new recipient with a copy of this document for that purpose.

10. **Q: Is there an interagency arrangement between members of the Intelligence Community and agencies with counterterrorism functions and USCIS concerning the disclosure of asylum-related information?**

    A: On October 8, 2001, the Attorney General used his discretionary authority under 8 CFR 208.6 to provide the FBI access to asylum applications filed with USCIS for the purpose of gathering foreign counterintelligence or international terrorism information unrelated to pending criminal or civil litigation. This arrangement was superseded in an April 18, 2007, memorandum whereby Secretary of Homeland Security Chertoff exercised his authority under 8 CFR 208.6 to allow disclosure of asylum-related information to any element of the U.S. Intelligence Community or any other federal or state agency having a counterterrorism function, provided that the need to examine the information or the request is made in connection with its authorized intelligence or counterterrorism function or functions and that the information received will be used for the authorized purpose for which it was requested. On August 25, 2011, Secretary Napolitano signed an addendum to the 2007 Memorandum. The addendum expands sharing of asylum-related information to include sharing with any local government agency having a counterterrorism function.

    In general, requests for disclosure of asylum-related information shall be made to the DHS Office of Intelligence and Analysis Support Branch (IASB) using the DHS Support Request Form. Requests for asylum information must include a detailed justification directly linking the request to an authorized intelligence or counterterrorism function, as IASB is required to validate requests with the offices of Privacy, Intelligence Oversight, and the General Counsel. The request for asylum information must be approved by an individual with supervisory command from the requesting office.

    If the request for disclosure, or pre-emptive disclosure if no request is made, occurs in accordance with the terms and conditions of any applicable standing information-sharing arrangements between DHS and the recipient, disclosure may be made without using the DHS Support Request Form.

11. **Q: Can members of the Intelligence Community and agencies with counterterrorism functions that receive asylum-related information further disseminate it?**

    A: Under certain limited circumstances, an element of the Intelligence Community or other federal, state or local governmental agency having a counterterrorism function that received asylum or refugee-related information may further disseminate that information, but such

further disclosure must be authorized by the Secretary, Deputy Secretary or the Under Secretary for Intelligence and Analysis acting in coordination with the Director, USCIS, the Assistant Secretary, ICE or any other DHS official to whom disclosure authority under section 208.6(a) has been delegated.

12. Q: Are there any other interagency arrangements?

A: Yes. In 2002, the Attorney General authorized the Asylum Division to disclose to the Office of Refugee Resettlement (ORR) of the Department of Health and Human Services (HHS) biographical information on individuals granted asylum to enable ORR to meet congressional reporting requirements and generate statistical reports used to allocate funding for asylee social benefits. In 2001 the Attorney General authorized the Asylum Division to disclose to HHS certain biographical information on asylees to enable ORR and the Center for Disease Control (CDC) to provide emergency relief to qualified asylees.

13. Q: Can asylum-related information be shared with foreign governments or international organizations (such as INTERPOL)?

A: Asylum-related information cannot be shared with foreign governments or international organizations without the written consent of the asylum applicant, except at the discretion of the Secretary of Homeland Security. Secretary Napolitano has exercised her discretion to permit regular sharing of asylum-related information with Canada, Australia, the United Kingdom, and New Zealand. Secretary Ridge initially allowed the sharing of asylum-related information with Canada in 2003. The arrangement with Canada is in the form of a *Statement of Mutual Understanding on Information Sharing* (SMU) and an Asylum Annex to the SMU, which together permit Canada's Department of Citizenship and Immigration Canada (CIC) and USCIS to exchange asylum-related records on both a case-by-case and systematic basis.

Since the signing of the Asylum Annex to the Statement of Mutual Understanding on Information Sharing between the U.S. and Canada in 2003, USCIS and CIC have engaged in a regular exchange of information on asylum claims on a case-by-case basis. More recently, the USCIS Asylum Division has worked with US-VISIT on sharing information relating to refugee claimants as defined in the agreement under the Five Country Conference (FCC) High Value Data Sharing Protocol (Protocol). Beginning in 2010, the Asylum Division commenced information sharing under the FCC Protocol with Canada, Australia, and the United Kingdom. The Asylum Division commenced information sharing under the FCC Protocol with New Zealand in 2011.

14. Q: Why are there special information-sharing agreements with Canada, Australia, the United Kingdom, and New Zealand?

A: Sharing information on asylum seekers was included as an initiative in the agreement signed by former Attorney General Ashcroft and former Canadian Minister of Citizenship and Immigration Caplan on December 2, 2001. It was also one of the thirty initiatives included in the Ridge-Manley Smart Border Action Plan. In furtherance of this initiative, the

United States and Canadian governments entered into a formal arrangement in 2003 that permits USCIS and CIC to systematically share information on individuals seeking asylum in the U.S. or Canada. The subsequent information-sharing agreements with Canada, Australia, the United Kingdom, and New Zealand through the Five Country Conference (FCC) High Value Data Sharing Protocol (Protocol) further strengthen USCIS's capacity to acquire information relevant to asylum adjudications. By gaining access to this key information, USCIS and the immigration authorities in Canada, Australia, the United Kingdom, and New Zealand will enhance their abilities to prevent abuse of the asylum process in their respective countries and to make accurate asylum eligibility determinations, thereby strengthening the integrity of each country's asylum system.

15. Q: What is the status of the implementation of the information-sharing arrangement with Canada?

A: USCIS and CIC have been sharing information on asylum seekers on a case-by-case basis since 2003. As of 2010, the USCIS Asylum Division has also worked with US-VISIT to share asylum-related information with Canada under the Five Country Conference (FCC) High Value Data Sharing Protocol (Protocol). The 2011 Beyond the Border agreement between the United States and Canada includes an action plan for enhanced information sharing between the two countries. USCIS and CIC and their technical specialists are working together to develop a fully automated systematic sharing of information to cover all asylum claimants who are subject to biometric collection requirements by 2014.

16. Q: May protected asylum-related information be shared with congressional offices?

A: If the Chairman of a congressional committee with competent jurisdiction submits a written request for protected asylum-related information, the requested information will generally be provided without regard to the regulation. Written requests for asylum-related information by individual Members of Congress or their respective staff members will be considered on a case-by-case basis.

17. Q: What information can be shared with the press when the applicant has gone public with the asylum claim?

A: Because the regulation currently requires the applicant's written consent, we generally do not recognize implicit waivers of confidentiality, even when the asylum-related information is a matter of public record.

18. Q: Does 8 CFR 208.6 apply to refugee information?

A: As a matter of policy, USCIS extends the same protections outlined in 8 CFR 208.6 to refugees.

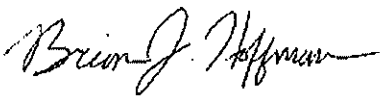
If you have any questions regarding these policies, please contact the Asylum Division's Operations Branch Chief at 202.272.1651.

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2025, a true and correct copy of the foregoing document was electronically filed via the Court's CM/ECF system which sends notice of electronic filing to all counsel of record. I provided copies of the foregoing motion and accompanying memorandum and proposed order via regular mail to the U.S. Attorney's Office, Southern District of Ohio to:

United States Attorney's Office
221 E. Fourth Street, Suite 400
Cincinnati, OH 45202

Respectfully submitted,



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Respondents–Defendants.

Case No. 25-281

MEMORANDUM OF LAW IN SUPPORT OF PETITIONERS-PLAINTIFFS' MOTION TO PROCEED UNDER PSEUDONYMS

INTRODUCTION

Petitioners-Plaintiffs ("Petitioners") move for permission to proceed under pseudonyms in the above-captioned case. The named Petitioners are challenging their removal to Bhutan, Nepal, and/or India, places they will face persecution and torture based upon their statelessness, race, religion, political opinion, nationality, and membership in a particular social group.

Petitioners ask this Court to permit them to proceed pseudonymously because the complaint, declarations, and subsequent filings will contain highly sensitive and personal information about their immigration status and history, and because Petitioners, if returned to Bhutan or Nepal, will face increased likelihood of persecution and torture if they were identified. Further, Respondents-Defendants ("Respondents") will not be prejudiced in their ability to litigate this case, and the public's interest in knowing the identity of the Petitioners, which are currently unknown to the public, is minimal. Petitioners are willing to provide all identifying information to the Court and the Respondents under seal. Thus, this Court should protect the Petitioner's safety and liberty interests and grant the Motion.

LEGAL STANDARD

Federal Rule of Civil Procedure 10(a) requires that the complaint "name all the parties." *See also* Fed. R. Civ. P. 17(a) ("An action must be prosecuted in the name of the real party in interest."). But the Sixth Circuit has stated that even though a complaint generally must state the names of all parties, the Court may excuse a plaintiff from identifying herself in certain circumstances. *See Doe v. Porter*, 370 F.3d 558, 560 (6th Cir. 2004). When considering a plaintiff's request to proceed anonymously, the Sixth Circuit weighs whether the plaintiff's privacy interests substantially outweigh the presumption of open judicial proceedings. The factors considered include: "(1) whether the plaintiffs seeking anonymity are suing to challenge

governmental activity; (2) whether prosecution of the suit will compel the plaintiffs to disclose information 'of the utmost intimacy'; (3) whether the litigation compels plaintiffs to disclose an intention to violate the law, thereby risking criminal prosecution; and (4) whether the plaintiffs are children." *Id.* (quoting Doe v. Stegall, 653 F.2d 180, 185-86 (5th Cir. 1981)). [1]

ARGUMENT

The *Stegall* factors weigh in favor of granting Petitioners' anonymity here. Petitioners are challenging only governmental activity – refoulement to a place they will face torture and persecution. This case contains highly sensitive and personal information about Petitioners' immigration status and histories, and Petitioners will face increased risks of persecution and torture if their identities were revealed. The rights that Petitioners seek to protect by remaining anonymous do not prejudice the federal government's ability to litigate the legality of their removal absent additional due process, and Petitioners are willing to reveal their identities to the Court and Respondents-Defendants.

I. Petitioners Are Challenging Governmental Conduct (Factor 1).

The only adverse party here is the federal government, and all Respondents are sued in their official capacity, which supports anonymity because suits against the government involve no injury to the government's reputation.

II. Pseudonyms Are Necessary to Protect Highly Sensitive and Personal Information (Factor 2).

Although the Sixth Circuit has not directly addressed the issue of anonymity in the immigration context, it has recognized that plaintiffs may proceed under pseudonyms where disclosure would compel the release of information "of the utmost intimacy." See *Doe*, 370 F.3d

[1] The *Stegall* factor number 4 is not at issue here.

at 560 (quoting *Doe v. Stegall*, 653 F.2d at 185–86). Similarly, courts outside the Circuit have routinely treated immigration matters, like the ones here, that disclose personal information, "with sensitivity under the Federal Rules of Civil Procedure and the INA." *R.F.M. v. Nielsen,* 365 F. Supp, 3d 350, 370-72 (S.D.N.Y. 2019); *M.M. v. Mayorkas*, No. 24-2090, 2024 WL 1795766, ay *2 (S.D.N.Y. Apr. 25, 2024) (granting motion to proceed anonymously where "[t]he facts underlying [p]laintiff's claim" involved a "highly sensitive and personal matter"); *M.O. v. Mayorkas*, No. 23-06609, 2023 WL 7300960, at *2 (W.D.N.Y. Nov. 6, 2023) (permitting plaintiff, an asylum seeker, to proceed under a pseudonym). *See also Doe v. Cabrera*, 307 F.R.D. 1, 4 (D.D.C. 2014) (noting that courts "allow plaintiffs to proceed under a pseudonym in cases involving matters of a sensitive and highly personal nature"); *Yaman v. U.S. Dep't of State*, 786 F. Supp. 2d 148, 152–53 (D.D.C. 2011) (allowing anonymity where disclosure risked harm and privacy interests outweighed public access); *Doe v. Von Eschenbach*, No. 06–2131, 2007 WL 1848013, at *2 (D.D.C. June 27, 2007) (noting that courts may permit plaintiffs to proceed anonymously to preserve privacy in sensitive matters or to protect against retaliatory harm).

Here, Petitioners' immigration status and histories, including their denationalization by Bhutan based on ethnicity, the expulsion of their families under coercion and threat of violence, and their well-founded fears of persecution and risks of torture in Bhutan and Nepal based on their political opinions and ethnic identity, constitute highly sensitive, personal information warranting protection through anonymity.

Federal law also strongly favors confidentiality in similar contexts. Federal Regulations protect the confidentiality of asylum seekers' information to prevent harm. *See* 8 C.F.R. § 208.6. As explained in the U.S. Citizenship and Immigration Services' Asylum Confidentiality Fact Sheet, attached as Exhibit A, public disclosure of asylum-related information may subject claimants to retaliatory measures by government authorities or non-state actors if repatriated, endanger the

security of family members remaining abroad, or even create new risks of harm where none previously existed. *See* Exhibit A. As a matter of policy, U.S. Citizenship and Immigration Services (USCIS) extends the same protections to refugee applicants, recognizing the similar risks they face. *Id.*

Revealing Petitioners' identities is likely to subject them to retaliatory harm should they be removed. Petitioners are individuals who were forcibly expelled from Bhutan, rendered stateless, forced to live in refugee camps, and subsequently granted protection in the United States. Public disclosure could expose them to grave risks of retaliation, arbitrary detention, and mistreatment in Bhutan and Nepal if they are returned. Therefore, their identities should remain anonymous.

III. Pseudonyms Are Necessary Because Petitioners Will Face Heightened Risks of Persecution or Torture Upon Removal As a Result of This Litigation (Factor 3).

Petitioners are members of the Nepali-speaking Bhutanese minority who were arbitrarily stripped of their Bhutanese citizenship under the 1985 Citizenship Act and the 1988 census. They were expelled from Bhutan through coercion and violence during mass expulsions in the early 1990s, and subsequently rendered stateless in Nepal, where they were confined to refugee camps for decades without access to citizenship, education, or basic services, before being resettled to the United States. Petitioners now face a well-founded fear of persecution if returned to Bhutan or Nepal, including the risks of arrest and indefinite detention, fabricated charges of treason, exposure to inhumane prison conditions involving beatings, prosecution for irregular entry, deprivation of medical care, and ill-treatment amounting to cruel, inhuman, or degrading treatment, as documented by United Nations Special Rapporteurs and the United Nations Working Group on Arbitrary Detention. U.N. Human Rights Council, *Working Group on Arbitrary Detention, Op No. 60/2024* (adopted Feb 18, 2025), https://digitallibrary.un.org/record/4079667?ln=en&v=pdf#files. Recent deportations of similarly situated refugees from the United States to Bhutan have resulted

in immediate expulsion without due process. See Gaurav Pokharel, *Nepali-Speaking Bhutanese Refugees in Limbo After Deportation from US*, The Guardian (Apr. 21, 2025), https://www.theguardian.com/world/2025/apr/21/bhutan-nepal-us-immigration; Jordan Wilkie, *U.S. Deports 4 Pa. Nepali Bhutanese Refugees to Bhutan*, WESA (Mar. 28, 2025), https://www.wesa.fm/politics-government/2025-03-28/trump-deporting-nepali-bhutanese-refugees-pennsylvania. Disclosure of Petitioners' identities would expose them to severe risk of retaliation from Bhutanese and Nepal authorities. These circumstances justify protection through anonymity.

The Sixth Circuit has granted anonymity in *Doe v. Porter*, where the court protected plaintiffs who faced social harassment after challenging government-sponsored religious activities. 370 F.3d 558 (6th Cir. 2004). The necessity of anonymity in this case is more compelling than in *Doe*. Here, plaintiffs seek to protect themselves from graver consequences, including persecution, and loss of liberty if identified. The threats in this case are international, severe, and life-threatening — not merely reputational. *Id.* Moreover, as noted above, immigration regulations expressly recognize the need for confidentiality to protect individuals asserting fears of return. *See* 8 C.F.R. 208.6; *see also* Exhibit A.

IV. Respondents Will Not Be Prejudiced, and the Public Interest Weighs in Favor of Allowing Petitioners to Proceed Pseudonymously (Factors 5 and 6).

Granting anonymity will not prejudice Respondents' ability to litigate the case. This case depends primarily on the resolution of purely legal questions about whether court intervention is necessary to protect Petitioners from return to persecution and torture, and not on Petitioner's credibility. And as explained above, there is no reputational damage to government Respondents, and Respondents already know Petitioners' identities. Accordingly, Respondents will suffer no harm, nor will they face any barriers to mounting a defense to the claims if Petitioners proceeds

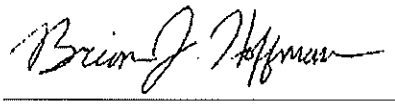
anonymously. Moreover, Petitioners have retained their anonymity from the public, which weighs in favor of allowing Petitioners to continue proceeding anonymously.

In contrast with the Petitioners' heightened interest in confidentiality, the public's interest in knowing their identities is minimal. Although the *issues* in this lawsuit are a matter of significant public concern because they involve governmental entities and actors, the *identity* of the Petitioners will add little to the public understanding of the case that is based purely on questions of law—whether district court review and intervention is necessary to prevent refoulement. The public will have access to the filings and proceedings in this case. The use of a pseudonym would not hinder the public's right to information about the ultimate legal questions at issue. Thus, the public interest weighs in favor of granting the Petitioner's Motion.

CONCLUSION

For each of these reasons, Petitioners respectfully request that this Court grant their Motion to proceed under a pseudonym. The Court should also require the government to safeguard their identity and prohibit any retaliatory actions.

Respectfully submitted,



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Counsel for Petitioner-Plaintiff

Dated: May 1, 2025

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
CINCINNATI DIVISION

M.K., M.R., and S.D.

Petitioner-Plaintiff,

v.

RICHARD JONES, Sheriff of Butler County, in his official capacity; **PAMELA BONDI**, Attorney General of the United States, in her official capacity; **KRISTI NOEM**, Secretary of the U.S. Department of Homeland Security, in her official capacity; **TODD LYONS**, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; **ROBERT LYNCH**, Director of the Detroit Field Office for U.S. Immigration and Customs Enforcement, in his official capacity.

Respondents–Defendants.

Case No. 25-281

Upon consideration of Petitioners-Plaintiff's ("Petitioners") Petitioners-Plaintiffs' Motion to Proceed Under Pseudonyms, and exhibit attached thereto, Petitioners' Motion is granted.

SO ORDERED:

Dated:_____

_____
Hon.
United States District Court Judge