

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

J.J.O.H.,

Petitioner,

v.

PAUL ARTETA, in his official capacity
as Sheriff of Orange County, New York
and Warden of the Orange County
Correctional Facility, *et al.*,

Respondents.

Civil Action No. 25-5278

**PETITIONER'S MOTION FOR
LEAVE TO PROCEED UNDER
PSEUDONYM**

INTRODUCTION

Petitioner J.J.O.H. ("Petitioner") moves for permission to proceed under pseudonym in the above-captioned case. The named Petitioner is challenging his detention in immigration custody, which includes discussion of his political activities in Venezuela and baseless allegations regarding membership in a gang that has been designated a terrorist organization.

Petitioner asks this Court to grant anonymity because the Petition contains, and subsequent filings will contain, highly sensitive and personal information about his immigration status and personal history. Furthermore, Respondents will not be prejudiced in their ability to litigate the constitutionality of Petitioner's detention, and the public's interest in knowing the identity of the Petitioner, which is currently unknown to the public, is minimal. Petitioner is willing to provide Respondents and the Court with his name. 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." But the Second Circuit has long recognized that there may be circumstances that allow a plaintiff

to proceed under a pseudonym. *See Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185, 189 (2d Cir. 2008). When considering a plaintiff's request to process anonymously, the Second Circuit balances ten, "non-exhaustive" factors:

- (1) whether the litigation involves matters that are highly sensitive and of a personal nature;
- (2) whether identification poses a risk of retaliatory physical or mental harm to the party seeking to proceed anonymously or, even more critically, to innocent non-parties;
- (3) whether identification presents other harms and the likely severity of those harms, including whether the injury litigated against would be incurred as a result of the disclosure of the plaintiff's identity;
- (4) whether the plaintiff is particularly vulnerable to the possible harms of disclosure, particularly in light of their age;
- (5) whether the suit is challenging the actions of the government or that of private parties;
- (6) whether the defendant is prejudiced by allowing the plaintiff to press their claims anonymously, whether the nature of that prejudice (if any) differs at any particular stage of the litigation, and whether any prejudice can be mitigated by the district court;
- (7) whether the plaintiff's identity has thus far been kept confidential;
- (8) whether the public's interest in the litigation is furthered by requiring the plaintiff to disclose their identity;
- (9) whether, because of the purely legal nature of the issues presented, or otherwise, there is an atypically weak public interest in knowing the plaintiff's identity; and
- (10) whether there are any alternative mechanisms for protecting the confidentiality of the plaintiff.

See id. at 189-90. Courts need not find in a plaintiff's favor on all ten factors in order to grant a motion to file under pseudonym. The decision to allow a plaintiff to proceed pseudonymously rests with the sound discretion of the district court. *Id.*

ARGUMENT

The *Sealed Plaintiff* factors weigh in favor of granting Petitioner's anonymity, and doing so will not prejudice the ability of Respondents to litigate the instant habeas petition.

A. Allowing Petitioner to Proceed by Pseudonym Is Necessary To Protect Petitioner's Highly Sensitive and Personal Information, and Mitigate Significant Risk of Harm and Retaliation

This case involves a petition for writ of habeas corpus challenging Petitioner's indefinite detention pursuant to the automatic stay provision in 8 C.F.R. § 1003.19(i)(2) as violative of the Due Process Clause, the Administrative Procedure Act, and the Immigration and Nationality Act. The first factor weighs in favor of granting anonymity because the Petition "involves matters that are highly sensitive and of a personal nature," *Sealed Plaintiff*, 537 F.3d at 190, including baseless allegations of membership in a gang and information regarding Petitioner's political activism against the Maduro regime in Venezuela detailed in his asylum application. For similar reasons, the second, third, and fourth factors also weigh heavily in favor of anonymity.

Petitioner is accused of being a member of the Tren de Aragua gang on the basis that he was renting a room in a house where other Venezuelans lived, who DHS now claims are members of the gang. Such allegations are highly sensitive and personal, and could have severe consequences for him, particularly if he is removed to Venezuela.

Moreover, Petitioner seeks asylum and other forms of fear-based relief in the United States because of the harm he would face if removed to Venezuela due to his political activism against the Maduro regime and the likelihood he would be considered a traitor due to his decision to flee to the United States. District courts in New York have regularly treated cases implicating immigration matters, "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-cv-2090, 2024 WL 1795766, at *2 (S.D.N.Y. Apr. 25, 2024) (granting motion to proceed anonymously

where the facts underlying plaintiff's claim involved a "highly sensitive and personal matter" in her asylum application); *M.O. v. Mayorkas*, No. 23-cv-06609, 2023 WL 7300960, at *2 (W.D.N.Y. Nov. 6, 2023) (permitting an asylum seeker to proceed under a pseudonym). Furthermore, were the details of Petitioner's fear-based claims and the U.S. government's false gang allegations made public, he fears reprisal, especially if deported. He also fears reprisal against his family members still in Venezuela were the details of his claim and the false gang allegations made public for the same reasons.

In evaluating assertions of privacy rights, courts must consider the "degree to which the subject matter is traditionally considered private rather than public." *United States v. Sattar*, 471 F. Supp. 2d 380, 387 (S.D.N.Y. 2006) (quoting *United States v. Amodeo*, 71 F.3d 1044, 1051 (2d Cir. 1995)). In line with these concerns for asylum applicants' safety, federal regulations impose strict confidentiality obligations against disclosure of the existence of an asylum claim and the details in the application throughout the asylum process. 8 C.F.R. § 208.6(a). While the regulations exclude the prohibition of disclosure as a general rule from U.S. courts reviewing legal actions regarding the adjudication of asylum applications, 8 C.F.R. § 208.6(c)(2), it does not prevent the court from sealing records where risk of harm from the disclosure is significant.

The asylum context involves particularly strong privacy interests: "the fact that a government agency has effectively promised confidentiality to persons supplying information to it creates [a] justifiable expectation of privacy." *Phillips v. Immigration & Customs Enf't*, 385 F. Supp. 2d 296, 305 (S.D.N.Y. 2005) ("[a]n asylum application contains personal information about the applicant and his family, including his personal history and political views, the release of which not only threatens the individual's privacy, but may very well endanger his life and the safety of other family members.") (internal citations omitted). The privacy interests at stake for asylum

applicants and asylees counsel strongly in favor of anonymity. *See M.M.V. v. Barr*, No. 19-cv-2773, 2019 WL 10890338, at *2 (D.D.C. Sept. 26, 2019) (“The public’s interest in the litigants’ identities is *de minimis* compared to the significant privacy interests of the plaintiffs, asylum seekers who fear retaliation and persecution, as well as further violence, if their names are disclosed.”) (following the framework of *Sealed Plaintiff*, 537 F.3d at 189-90).

Petitioner’s reasonable fear that the revelation of his identity linked with the baseless gang allegations and details of his fear-based claim would further increase the risk of his torture or death if deported to Venezuela is a legitimate basis for allowing him to proceed anonymously. *See Doe v. Gonzales*, 484 F.3d 445, 446 (7th Cir. 2007) (allowing petitioner to file under a pseudonym given his fear of death if returned to El Salvador); *Does I thru XXII v. Advanced Textile Corp.*, 214 F.3d 1058, 1071 (9th Cir. 2000) (cited approvingly in *Sealed Plaintiff*, 537 F.3d at 190) (reasonable fears of arrest, detention, and torture are sufficient to allow a litigant to proceed under a pseudonym).

B. Respondents Will Not Be Prejudiced If Petitioner Proceeds By Pseudonym in Publicly Filed Documents

The fifth, sixth, and seventh factors also weigh heavily in favor of allowing Petitioner to proceed by pseudonym. The Petition challenges the actions of the government and all Respondents are sued in their official capacity, which supports anonymity because “[s]uits against the government involve no injury to the [g]overnment’s reputation.” *Doe v. Skyline Automobiles Inc.*, 375 F. Supp. 3d 401, 406 (S.D.N.Y. 2019) (citation and internal quotation marks omitted); *R.F.M.*, 365 F. Supp. 3d at 371 (“In cases brought against government entities, personal anonymity is more readily granted.”) (internal quotations and citation omitted); *Doe No. 2 v. Kolko*, 242 F.R.D. 193, 195 (E.D.N.Y. 2006) (“[W]hether the defendants are governmental entities is significant because a challenge to governmental policy ordinarily implicates a public interest and the government has

less of a concern with protecting its reputation than a private individual.”); *M.M.*, No. 24-cv-02090, 2024 WL 1795766, at *2 (granting anonymity to an asylum seeker, in part, because “Plaintiff challenges the government rather than a private entity.”).

There is no risk that Respondents will be prejudiced by an order preventing the public disclosure of Petitioner’s identity. There is no prejudice to Respondents in responding to and litigating the Petition because Petitioner’s identity has already been disclosed to Respondents. In contrast, there could be a significant increase in danger to Petitioner because the contents of his asylum application is not widely known.

C. The Public Interest Supports Allowing Petitioner to Proceed by Pseudonym.

The remaining factors—eighth, ninth, and tenth—weigh in favor of Petitioner’s motion. The interests of the public are in line with Petitioner’s interests. When a plaintiff challenges unlawful government action, “the judicial process serves as a significant check on abuse of public power.” *Doe v. Del Rio*, 241 F.R.D. 154, 158 (S.D.N.Y. 2006) (cited approvingly in *Sealed Plaintiff*, 537 F.3d at 189-90). In these cases, the public’s interest is in checking these abuses of power and in ensuring that “the price of access to the courts not be too high.” *Id.* Here, Petitioner’s fear of harm would discourage him from pursuing his Petition but for the opportunity to keep his identity confidential and submit other information with appropriate redactions to protect the disclosure of his identity. Thus, because of the recognized public interest in suits challenging government activity, the public also has an interest in allowing Petitioner to proceed under a pseudonym.

Finally, there are no alternative mechanisms that will sufficiently protect Petitioner’s safety because filing of publicly accessible documents under his name, even with significant portions

redacted, would still lead to the disclosure of extremely sensitive information, parts of which form the basis of his fear-based claims for relief from deportation.

CONCLUSION

Given the level of detail provided in the Petition about the Petitioner, and his genuine fears about his safety and his family's safety as a result of broad disclosure, Petitioner respectfully requests that the Court grant leave to file the Petition under pseudonym "J.J.O.H." and redact references to his identity in remaining exhibits and all other subsequent filings, orders, and opinions that implicate Petitioner's safety and privacy interests.

Dated: June 24, 2025
Brooklyn, New York

Respectfully Submitted,

/s/ Alyssa Briody

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