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16 **UNITED STATES DISTRICT COURT**
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 M.M.,
19
20 Petitioner,
21
22 v.

23 CHRISTOPHER J. LAROSE, Warden,
24 Otay Mesa Detention Center; PATRICK
25 DIVVER, San Diego Field Office
26 Director; TODD M. LYONS, Acting
27 Director of U.S. Immigration and
28 Customs Enforcement; MARKWAYNE
MULLIN, Secretary of the U.S.
Department of Homeland Security,

Respondents.

CASE NO. '26CV2346 BJC BJW

**MOTION FOR LEAVE TO PROCEED
BY PSEUDONYM AND FOR A
PROTECTIVE ORDER**

**POINTS AND AUTHORITIES IN
SUPPORT OF MOTION FOR LEAVE
TO PROCEED BY PSEUDONYM
AND FOR A PROTECTIVE ORDER**

NOTICE OF MOTION

PLEASE TAKE NOTICE that, as soon as this matter may be heard, Petitioner will and hereby does move this Court pursuant to Federal Rule of Civil Procedure 5.2(e) for leave to proceed under a pseudonym and for a protective order safeguarding his true identity from public disclosure. Petitioner will disclose his identity to the Court and the Respondents. Petitioner also moves the Court to order Respondents to maintain the confidentiality of his identity by using only pseudonyms in all of their filings, including all exhibits in which their names appear.

Petitioner seeks relief because this case necessarily concerns highly sensitive facts: Petitioner was forced to flee Afghanistan based on past persecution and a reasonable fear of future persecution because he (1) has immediate family members who held high-ranking positions in the pre-2021 government and who fought against the Taliban, (2) is a minority ethnic group discriminated against by the majority Sunni Taliban, (3) is a minority Shi'a Muslim, and (4) holds political and social positions which are fundamentally opposite to those held by the Taliban (e.g., women's rights). Specifically, Petitioner's father's transportation company purchased military equipment and delivered it to military posts to reinforce the posts against the Taliban. In addition, one of Petitioner's uncles was a military prosecutor who prosecuted members of the Taliban while in this role. Petitioner lived much of his life with this uncle, and as this uncle has no wife or children of his own, Petitioner believes the Taliban would target him for persecution as one of the uncle's closest family members. Petitioner has a well-founded fear of persecution, as his father and one uncle have been shot at, and even in his own former village, the villagers know his father and uncles and are aware of their anti-Taliban activities and would report them to the Taliban. Many of Petitioner's friends and neighbors were reported and arrested immediately after the Taliban took over. Petitioner is at extreme and immediate risk of harm and persecution by the Taliban in

1 Afghanistan. Publicly disclosing Petitioner’s identity would risk retaliation and serious
2 harm and chill access to judicial review.

3 This motion is made pursuant to Federal Rule of Civil Procedure 5.2(e) and all
4 other applicable statutes, rules, and authorities, and is based on this Notice of Motion;
5 the accompanying Memorandum of Points and Authorities; the Proposed Order
6 submitted herewith; oral argument, if any; and such other matters as the Court may
7 properly consider.

8 WHEREFORE, Petitioner prays that this Court grants his request to proceed by
9 pseudonym and for a protective order safeguarding his true identity from public
10 disclosure.

11 Dated: April 13, 2026

Respectfully submitted,

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13 By: Neema Jalali

14 Neema Jalali
15 GIBSON, DUNN & CRUTCHER LLP
16 *Pro Bono Attorney for Petitioner*
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MOTION FOR LEAVE TO PROCEED BY PSEUDONYM AND FOR PROTECTIVE ORDER: POINTS AND
AUTHORITIES IN SUPPORT OF MOTION FOR LEAVE TO PROCEED BY PSEUDONYM AND FOR
PROTECTIVE ORDER

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INTRODUCTION

Federal Rule of Civil Procedure 10(a) generally requires parties to identify themselves in the caption. But the Ninth Circuit permits pseudonymous litigation when “special circumstances justify secrecy” and when “the party’s need for anonymity outweighs prejudice to the opposing party and the public’s interest in knowing the party’s identity.” *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1067–68 (9th Cir. 2000).

Those special circumstances exist here. Petitioner M.M. challenges his sudden civil detention—after years of liberty in the community—without notice or a pre-deprivation hearing, in violation of the Fifth Amendment. As relevant here, M.M. was forced to flee Afghanistan based on past persecution and a reasonable fear of future persecution because he (1) has immediate family members who held high-ranking positions in the pre-2021 government and who fought against the Taliban, (2) is a member of the Hazara minority ethnic group discriminated against by the majority Sunni Taliban, (3) is a minority Shi’a Muslim, and (4) holds political and social positions which are fundamentally opposite to those held by the Taliban (e.g., women’s rights). Pet. ¶ 2.

In the spring of 2022, Petitioner and his sister (the “M’s”) escaped to Islamabad, Pakistan, to attend an interview to receive F-1 student visas and plan their travel to the United States. *Id.* ¶ 3. They both received in advance invitations to attend a private high school in California, on full scholarship. *Id.* After the M’s received their F-1 student visas, they left Pakistan for the United States, and, shortly after, started in-person classes at the high school. *Id.*

M.M. timely filed his affirmative application for asylum in May 2023, and Respondents issued him a work authorization card in November 2023. *Id.* ¶ 4. Since receiving work authorization, Petitioner has worked as a delivery driver. *Id.* ¶ 6. On the

1 evening of April 10, 2026, M.M. accepted a request to deliver, and attempted to drop
2 off, an order to a delivery user located at Marine Corps Base Camp Pendleton (“Camp
3 Pendleton”) in San Diego County, California. *Id.* When he arrived at the entry gate, the
4 gate guard requested M.M.’s identification. *Id.* M.M. complied and provided his I-94
5 and explained that he had a pending asylum application, but the guard detained him
6 regardless. *Id.* ICE ultimately transported M.M. to Otay Mesa Detention Center. *Id.* at
7 7. ICE’s abrupt detention of M.M. during his authorized employment has created acute
8 risk of harm to him and to his family if his identity and sensitive personal history are
9 publicly disclosed.

10 This case cannot be litigated without addressing M.M.’s asylum posture and the
11 factual basis for his fear of persecution, as well as private information about his family.
12 Publicly linking these facts to M.M.’s identity would (1) create a substantial risk of harm
13 and retaliation for M.M. both here in the United States and in Afghanistan, should he be
14 forced to return, as well as for his family, many of whom are still residing in Afghanistan
15 and fear the Taliban, and it would impose severe and unnecessary privacy injuries.

16 M.M. does not seek to conceal his identity from Respondents or the Court.
17 Counsel will provide Respondents’ counsel with M.M.’s true name and A-number
18 immediately upon entry of the requested protective order or sooner at the Court’s
19 direction, and M.M. will file under seal any document necessary to identify M.M. for
20 administrative and custody purposes. The Court can fully preserve transparency as to
21 the legal issues and factual record while protecting M.M.’s safety and privacy.

22 **LEGAL STANDARD**

23 Rule 10(a) embodies the public’s interest in open judicial proceedings. *See*
24 *Advanced Textile*, 214 F.3d at 1067. Nonetheless, federal courts allow a party to proceed
25 anonymously “when special circumstances justify secrecy,” including when
26 nondisclosure is necessary “to protect a person from harassment, injury, ridicule, or
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1 personal embarrassment.” *Id.* at 1067–68 (quoting *United States v. Doe*, 655 F.2d 920,
2 922 n.1 (9th Cir. 1981)).

3 Under *Advanced Textile*, courts balance (1) the severity of the threatened harm,
4 (2) the reasonableness of the anonymous party’s fears, (3) the party’s vulnerability to
5 retaliation, (4) prejudice to the opposing party, and (5) the public interest. *Id.* at 1068;
6 see *Doe v. Kamehameha Schs./Bernice Pauahi Bishop Est.*, 596 F.3d 1036, 1042 (9th
7 Cir. 2010). The Court also weighs prejudice to the opposing party and “the public’s
8 interest in knowing the party’s identity,” and it considers whether the proceedings may
9 be structured to mitigate any prejudice. *Advanced Textile*, 214 F.3d at 1068–69, 1072;
10 see also *Kamehameha*, 596 F.3d at 1042–43.

11 Courts have repeatedly permitted asylum seekers and other vulnerable noncitizens
12 to proceed under pseudonyms to prevent retaliation and to protect confidentiality. See,
13 e.g., *Doe v. Holder*, 736 F.3d 871, 872 n.1 (9th Cir. 2013); *Doe v. Gonzales*, 484 F.3d
14 445 (7th Cir. 2007); *Doe v. U.S. Immigr. & Naturalization Serv.*, 867 F.2d 285, 286 n.1
15 (6th Cir. 1989); *A.B.T. v. U.S. Citizenship & Immigr. Servs.*, No. C11-2108, 2012 WL
16 2995064, at *3–5 (W.D. Wash. July 20, 2012).

17 ARGUMENT

18 M.M. clears the Ninth Circuit’s bar for showing that, given his “highly vulnerable
19 status, [he] reasonably fear[s] severe retaliation, and that this fear outweighs the interests
20 in favor of open judicial proceedings.” *Advanced Textile*, 214 F.3d at 1069 (9th Cir.
21 2000).

22 **Severity.** M.M.’s filings describe threats aimed at him and his family in
23 Afghanistan tied to their Hazara ethnicity, Shi’a religion, immediate family members
24 who held high-ranking positions in the pre-2021 government and who fought against the
25 Taliban, and political and social positions which are fundamentally opposite to those
26 held by the Taliban (e.g., women’s rights). These threats were followed by violence,
27 including physically torturing M.M.’s cousin, arresting his uncle, and shooting at his
28

1 father and uncle. Publicly identifying M.M. as an asylum seeker—and linking his name
2 to the underlying allegations—risks exposing M.M. and his family to retaliatory harm.
3 Courts recognize that asylum seekers and their families may face severe danger if their
4 identities become public, especially if they are removed to their home countries. *See,*
5 *e.g., Doe v. INS*, 867 F.2d at 286 n.1 (use of pseudonyms warranted “to protect the
6 petitioner’s family, who remain in China, from possible reprisals”); *A.B.T.*, 2012 WL
7 2995064, at *3 (recognizing that exposing identities may jeopardize freedom and
8 physical safety, including for family members).

9 The potential severity of harm stemming from reprisals due to the circumstances
10 of M.M.’s flight from Afghanistan is substantially greater than the economic injuries
11 assessed in *Advanced Textile*, i.e., potential employment retaliation toward garment
12 industry workers in a labor action. *See* 214 F.3d at 1063–64, 1070–71.

13 **Reasonableness.** M.M.’s fear is not speculative. “What is relevant is that
14 plaintiffs were threatened, and that a reasonable person would believe that the threat
15 might actually be carried out.” *Id.* at 1071 (9th Cir. 2000). M.M.’s factual narrative
16 includes credible allegations of targeted threats and violence: He departed Afghanistan
17 due to threats and physical violence from the Taliban. It is reasonable to fear that online
18 access to federal court filings could expose identifying information to individuals who
19 pose a danger to M.M. or his relatives in who are still residing in Afghanistan.

20 **Vulnerability.** Given his present detention in ICE custody, M.M. is facing
21 potential removal to Afghanistan, where the potential threats and reprisals are most
22 acutely concentrated—harms alleged on the basis of actual past persecution and
23 intimidation. *See Kamehameha*, 596 F.3d at 1045 (concluding four non-native Hawaiian
24 children who challenged school’s race-based admissions policy were vulnerable, as the
25 case had generated a large public debate, and the children had received threats of
26 physical harm from the public).

1 **Prejudice.** Respondents will not suffer prejudice because they will know M.M.’s
2 identity. Courts emphasize preserving anonymity “to the greatest extent possible
3 without prejudicing the opposing party’s ability to litigate the case.” *Advanced Textile*,
4 214 F.3d at 1069. M.M. does not seek to litigate anonymously as to Respondents. Upon
5 entry of a protective order, counsel will provide Respondents’ counsel with M.M.’s true
6 name, A-number, and any other identifiers reasonably necessary to litigate and to
7 administer custody-related relief. These actions would erase any meaningful prejudice.
8 *See id.* at 1072 (finding lack of prejudice where anonymity did not prevent defendants
9 from litigating); *see also Kamehameha*, 596 F.3d at 1042–43, 1045 n.7.

10 **Public interest.** The public interest favors protecting asylum-related
11 confidentiality and sensitive personal information while preserving access to the merits.
12 The public retains full access to the legal issues, evidence, and the Court’s rulings. The
13 only withheld information is M.M.’s true name, which, if connected to other identifying
14 details before the Court, would functionally disclose his asylum posture and sensitive
15 history. That narrow tailoring serves, rather than undermines, the public interest. *See*
16 *Advanced Textile*, 214 F.3d at 1072–73. There is also a strong public interest in
17 protecting asylum confidentiality. DHS regulations protect against disclosure of
18 information “contained in or pertaining to” an asylum application. 8 C.F.R. § 208.6; *see*
19 *also* 8 C.F.R. § 1208.6. Courts have recognized that requiring public disclosure of an
20 asylum applicant’s identity can conflict with these confidentiality protections and
21 undermine access to judicial review. *See, e.g., A.B.T.*, 2012 WL 2995064, at *5
22 (“Asylum seekers have the right to keep confidential any information contained in or
23 pertaining to an asylum application”); *cf., e.g., Doe v. Regents of Univ. of Cal.*, No.
24 22-CV-1506, 2025 WL 1030247, at *6 (S.D. Cal. Apr. 7, 2025) (finding possibility that
25 plaintiff might “abandon his lawsuit in order to protect his identity and highly sensitive
26 and personal information from becoming known to the public” militates fifth *Advanced*
27 *Textile* factor in favor of pseudonymous treatment).
28

1 Finally, this case challenges government detention practices and seeks to
2 vindicate constitutional rights. The public interest in adjudicating those issues on the
3 merits weighs in favor of permitting pseudonymity when denial would “chill [plaintiffs’]
4 willingness to challenge statutory and constitutional violations.” *A.B.T.*, 2012 WL
5 2995064, at *6 (noting “lawsuits that enforce statutes and constitutional rights generally
6 benefit the public” for purposes of fifth *Advanced Textile* factor).

7 **CONCLUSION**

8 M.M. respectfully requests that the Court grant this motion and permit him to
9 proceed under the pseudonym “M.M.” and for a protective order limiting disclosure of
10 him identity to counsel for Respondents and the Court. M.M. additionally requests, that,
11 pursuant to Federal Rule of Civil Procedure 5.2(e), this Court orders all parties to use
12 M.M.’s pseudonym in all documents filed in this action.

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14 Dated: April 13, 2026

Respectfully submitted,

15
16 By: Neema Jalali

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18 GIBSON, DUNN & CRUTCHER LLP
19 *Pro Bono Attorney for Petitioner*
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