

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA**

Y.A.P.A.,

*Petitioner–Plaintiff,*

v.

DONALD J. TRUMP, in his official capacity as  
President of the United States, *et al.*,

*Respondents–Defendants.*

Case No. 4:25-cv-00144

**MEMORANDUM OF LAW IN  
SUPPORT OF PETITIONER-  
PLAINTIFF’S MOTION TO  
PROCEED UNDER  
PSEUDONYM**

**MEMORANDUM OF LAW IN SUPPORT OF PETITIONERS-PLAINTIFF’S  
MOTION TO PROCEED UNDER PSEUDONYM**

**INTRODUCTION**

Petitioner-Plaintiff Y.A.P.A. (“Petitioner”) moves for permission to proceed under pseudonym in the above-captioned case. The Petitioner is challenging the Presidential Proclamation entitled the “Invocation of the Alien Enemies Act Regarding the Invasion of The United States by Tren De Aragua” (the “Proclamation”) and its implementation that threatens him with summary removal from United States. He does so in a time of extreme anti-immigrant rhetoric and hostility.

Petitioner asks this Court to permit him to proceed pseudonymously because the complaint, declarations, and subsequent filings will contain highly sensitive and personal information about his immigration status and history, and because Petitioner is challenging the very Proclamation that might subject him to retaliatory removal from the United States if he were identified. Further, Respondents-Defendants (“Respondents”) will not be prejudiced in their ability to litigate the

constitutionality of the Proclamation, 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 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." *See also* Fed. R. Civ. P. 17(a) ("An action must be prosecuted in the name of the real party in interest."). But the Eleventh Circuit has long recognized that plaintiffs may proceed anonymously where "the plaintiff has a substantial privacy right which outweighs the 'customary and constitutionally-embedded presumption of openness in judicial proceedings.'" *Doe v. Frank*, 951 F.2d 320, 323 (11th Cir. 1992) (*per curiam*) (quoting *Doe v. Stegall*, 653 F.2d 180, 186 (5th Cir. 1981)).

"Whether a party's right to privacy outweighs the presumption of openness is a 'totality-of-the-circumstances question.'" *Doe v. Neverson*, 820 F. App'x 984, 986 (11th Cir. 2020) (quoting *In re Chiquita Brands Int'l Inc.*, 965 F.3d 1238, 1247 n.5 (11th Cir. 2020)). Under Eleventh Circuit precedent, the "first step" is for courts to consider the three initial factors: whether the party seeking to proceed anonymously "(1) is challenging government activity; (2) would be compelled, absent anonymity, to disclose information of utmost intimacy; or (3) would be compelled, absent anonymity, to admit an intent to engage in illegal conduct and thus risk criminal prosecution." *Chiquita Brands*, 965 F.3d at 1247 (citing *Plaintiff B v. Francis*, 631 F.3d 1310, 1316 (11th Cir. 2011) and *Southern Methodist Univ. Association of Women Law Students v. Wynne*, 599 F.2d 707, 713 (5th Cir. 1979) (hereinafter, *SMU*)). Courts should then consider "all the circumstances of a

given case” in order to decide whether a plaintiff’s privacy concerns outweigh the general requirement of disclosure. *Plaintiff B*, 631 F.3d at 1316 (quoting *Frank*, 951 F.2d at 323) (emphasis in original). In particular, courts should consider factors such as plaintiffs’ ages and personal circumstances, whether they would face threats of violence or physical harm if proceeding publicly, and whether plaintiffs’ “anonymity pose[s] a unique threat of fundamental unfairness to the defendant.” *Id.* (citing *Stegall*, 653 F.2d at 186 and *SMU*, 599 F.2d at 713).

Applying these factors (the “*Plaintiff B* factors”), numerous courts have allowed litigants to proceed anonymously and obtain related relief. *See, e.g., Doe v. Wantong Int’l, Inc.*, No. 6:25-cv-179-PGB-DCI, 2025 WL 712762 (M.D. Fla. Mar. 5, 2025); *A.B. v. U.S. Dep’t of Homeland Sec.*, No. 23-cv-23554, 2023 WL 6160838 (S.D. Fla. Sept. 21, 2023) *Koe v. Noggle*, No. 1:23-cv-2904-SEG, 2023 WL 11909781 (N.D. Ga. July 26, 2023); *Eknes-Tucker v. Ivey*, No. 2:22-cv-0184, 2022 WL 19983530 (M.D. Ala. May 3, 2022); *Doe #1 v. MG Freesites, Ltd.*, No. 7:21-cv-00220-LSC, 2021 WL 2556009 (N.D. Ala. Mar. 3, 2021); *Oldaker v. Giles*, No. 7:20-CV-00224 (WLS), 2021 WL 3412551 (M.D. Ga. Aug. 4, 2021); *Doe v. Rickey Patel, LLC*, No. 6:19-cv-2414-Orl-40LRH, 2020 WL 9073327 (M.D. Fla. Mar. 4, 2020); *Does v. Swearingen*, No. 6:18-cv-1731-Orl-41LRH, 2019 WL 4386936 (M.D. Fla. Sept. 13, 2019); *Fla. Abolitionist, Inc. v. Backpage.com LLC*, No. 6:17-cv-218-Orl-28TBS, 2018 WL 2017535 (M.D. Fla. May 1, 2018); *Freedom From Religion Foundation, Inc. v. Emanuel Cnty. School System*, 109 F. Supp. 3d 1353 (S.D. Ga. 2015); *Alexandra H. v. Oxford Health Ins., Inc.*, No. 11-23948-CIV, 2012 WL 13194941 (S.D. Fla. Mar. 23, 2012); *M.J. v. Jacksonville Hous. Auth.*, No. 3:11-cv-771-J-37MCR, 2011 WL 4031099 (M.D. Fla. Sept. 12, 2011).

## ARGUMENT

Petitioner has a substantial privacy right in proceeding without his name being made public in this action, and the *Plaintiff B* factors weigh decidedly in Petitioner's favor here: (1) Petitioner is challenging government activity; (2) absent anonymity, Petitioner would be compelled to disclose information of utmost intimacy, namely, highly sensitive and personal information about his immigration status and physical characteristics; (3) Petitioner is at risk of threats of violence or physical harm if he were to proceed publicly, and he also is likely to be subject to removal under the Proclamation, quite possibly to a notoriously inhumane prison in El Salvador, if his identity is revealed; and (4) Petitioner's anonymity would pose no threat of fundamental fairness to Respondents.<sup>1</sup> Moreover, other factors also weigh in favor of this motion, including: (5) the public's access to these proceedings will not be hindered when Petitioner's true identity, but not the facts surrounding the case, is protected; and, (6) Petitioner could be dissuaded from pursuing the rights this suit seeks to vindicate if his identity is revealed. To the contrary, because of the likely harm Petitioner would face if his identity is disclosed, there is a strong public interest in preserving Petitioner's confidentiality, and finding otherwise could very well dissuade him from pursuing this litigation.

Petitioner is willing to reveal his identity to the Court, if necessary, and to the government so long as the Court requires the government to maintain his confidentiality and prohibit any

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<sup>1</sup> The third *Plaintiff B* factor, whether Petitioner "would be compelled, absent anonymity, to admit an intent to engage in illegal conduct and thus risk criminal prosecution," *Plaintiff B v. Francis*, 631 F.3d at 1316, is not relevant here, because Petitioner has not engaged in illegal conduct that this litigation would reveal. *See Plaintiff B*, 631 F.3d 1316 (finding district court denial of motion to proceed anonymously was an abuse of discretion, even where the first and third *Plaintiff B* factors were not relevant to the case).

retaliatory actions.

### **I. Petitioner Is Challenging Government Activity.**

The fact that Petitioner is challenging government action makes this factor neutral, rather than weighing against Petitioner’s motion. *Noggle*, 2023 WL 11909781, at \*2. Where plaintiffs are suing private individuals rather than government entities, courts tend to find less reason to grant the request for anonymity, because governments, unlike private individuals, do not suffer reputational or economic harm from defending a civil action. *SMU*, 599 F.2d at 713; *S.B. v. Fla. Agric. & Mech. Univ. Bd. of Trustees*, 823 F. App’x 862, 866 (11th Cir. 2020) (noting district court’s finding that plaintiff’s action against a public Florida university was challenging government activity and therefore this factor weighed in favor of granting anonymity); *Oldaker*, 2021 WL 3412551, at \*2 (permitting ICE detainees to proceed anonymously where the litigation revealed information of the utmost intimacy and detainees were “challenging government misconduct”).

### **II. Proceeding Anonymously Would Protect Against Revelation of Highly Sensitive Personal Information.**

This case involves sensitive information related to Petitioner’s personal circumstances (as a noncitizen seeking asylum in the United States whom the government has inaccurately alleged to be connected to Tren de Aragua). *Plaintiff B*, 631 F.3d at 1316 (factor two, “information of the utmost intimacy”).

Petitioner has sought asylum in the United States based on fear of persecution in Venezuela. ECF No. 1, Pet. ¶ 21. Regulations implementing the asylum statute provide that “[i]nformation contained in or pertaining to” any asylum application, including information that “indicate[s] that a specific alien has applied for . . . asylum,” shall “be protected from disclosure.” 8 C.F.R.

§ 208.6(a), (b). “[T]he regulation instructs that personal information disclosed on an asylum application, including information that simply indicates that an alien has applied for asylum, is presumptively confidential and should be protected from disclosure.” *A.B.*, 2023 WL 6160838, at \*2. The U.S. government’s own position, set forth by regulation, that the government may not disclose even the mere fact that someone applied for asylum or the contents of that application, demonstrates the importance of protecting this information, which makes it “information of the utmost intimacy.” *Id.* (quoting *Plaintiff B*, 631 F.3d at 1316–17) (granting motion to proceed pseudonymously where otherwise the fact that the plaintiff had applied for asylum would be public, where the court placed “significant weight on the fact that asylum proceedings are inherently confidential proceedings, and the public has no interest in discovering [the plaintiff’s] identity); accord *D.B.U. v. Trump*, No. 1:25-cv-01163-CNS, 2025 WL 1101149, at \*1 (D. Colo. Apr. 14, 2025) (“‘numerous courts have recognized the unique vulnerabilities of asylum seekers’ and similarly situated individuals and ‘allowed them to proceed pseudonymously as a result’” (citation omitted); *Kiakombua v. McAleenan*, No. 19-cv-1872 (KBJ), 2019 WL 11322784, at \*2 (D.D.C. July 3, 2019) (“[A]sylum seekers . . . ‘fall within a particularly vulnerable class of migrants for whom confidentiality about the nature and existence of their claims is particularly important.’” (citation omitted)); *MM v. Mayorkas*, No. 24-cv-02090, 2024 WL 1795766, at \*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”); *MO v. Mayorkas*, No. 23-cv-06609-FPG, 2023 WL 7300960, at \*2 (W.D.N.Y. Nov. 6, 2023) (permitting plaintiff, an asylum seeker, to proceed under a pseudonym).

Moreover, the Proclamation targets individuals based on their immigration status and

physical characteristics such as tattoos, erroneously accusing them of being members of Tren de Aragua (“TdA”). Petitioner’s immigration status and history, including fears of persecution in Venezuela, coupled with his physical characteristics that would risk him being (wrongly) identified as a TdA member under the Proclamation, are highly sensitive personal information that warrants granting anonymity. *See* Pet. ¶ 21.

### **III. Revealing Petitioner’s Identity Would Put Him at Risk of Great Harm.**

The Proclamation targets Venezuelan noncitizens who are designated by the government as members of TdA. Petitioner fears retaliatory removal from the United States under the very Proclamation that he is challenging. Although Respondents know Petitioner’s identity, Petitioner fears future retaliation and summary removal under the Proclamation. Petitioner also fears retaliation in the form of physical violence in Venezuela if his identity were to be revealed and if he were to be removed for being erroneously identified as member of TdA under the Proclamation. Courts have granted anonymity in similar situations. *See, e.g., See J.O.P. v. U.S. Dep’t of Homeland Sec.*, --- F. Supp. 3d ---, 2025 WL 1180191, at \* 8 (D. Md. Apr. 23, 2025) (“Plaintiffs clearly face the risk of retaliatory harm in their home country, as well as in detention in El Salvador and potentially within the United States, if their identities are made public. The threat of physical retaliatory harm within El Salvador's prisons and within the United States has prompted other courts considering analogous factual circumstances to permit pseudonymity.”); *Wantong*, 2025 WL 712762, at \*2 (granting motion where Plaintiff had “a reasonable fear of retaliation if her identity is disclosed”); *Doe v. Att’y Gen., U.S.*, 307 Fed. App’x 636, 636 n.1 (3d Cir. 2009) (permitting noncitizen petitioner to proceed with a pseudonym based on “legitimate concerns about his safety” if removed from the United States); *Doe v. Gonzales*, 484 F.3d 445, 446 (7th Cir. 2007) (“[John

Doe] has been permitted to litigate his claim pseudonymously because of his fear that if he is returned to El Salvador he will be killed.”).

Moreover, anti-immigrant rhetoric has reached an all-time high, particularly against *alleged* members of TdA and their families. *See, e.g.,* Layla Ferris, *As Trump puts Aurora, Colorado in Spotlight, Mayor Calls Venezuelan Gang Claims “Grossly Exaggerated,”* CBS News (Oct. 11, 2024), <https://perma.cc/Q6HS-S9KP> (“*misleading* claims by the former president that the city was a ‘war zone’ overrun with members of a Venezuelan gang” and “concerns about gang activity have been ‘grossly exaggerated’”) (emphasis added); Russell Contreras, *Anti-Immigrant Rhetoric Sparks Fears of More Hate Crimes Against Latinos*, Axios (Mar. 7, 2024), <https://perma.cc/59K2-ABR8> (noting “[a]nti-Latino hate crimes hit record highs in 2022” and had “a 21% increase in two years”); Human Rights First, *Extremism Fact Sheet* (March 2023), <https://perma.cc/GJY2-D3PX> (noting a “growth and normalization of xenophobic and anti-immigrant extremism” and its “wide-ranging impact”). Considering this growing rhetoric, Petitioner reasonably fears he and his family will be targeted for participating in this lawsuit if his identity were revealed. *See Noggle*, 2023 WL 11909781, at \*3 (explaining that being “subject to stigma, discrimination or other harm” due to public participation in a lawsuit may be sufficient to warrant anonymity (citing *Neverson*, 820 F. App’x at 988)). Prior litigation over the Proclamation has resulted in worldwide publicity. Public disclosure of Petitioner’s name runs a risk of identifying his family, thus potentially putting those family members at risk.

As explained above, Petitioner is at risk of substantial harm, namely, retaliatory removal from the United States, if his identity is released. And if Petitioner is removed to Venezuela under the Proclamation, he is likely to face further harm, including physical harm, as a suspected gang



member. In the current climate in the United States, he also fears harm or retaliation against his family if his name is made public.

Accordingly, Petitioner can demonstrate that he has a reasonable fear of harm.

#### **IV. Petitioner’s Anonymity Would Pose No Threat of Fundamental Fairness to Respondents.**

Respondent are government officials sued in their official capacities and therefore there is “no threat of fundamental unfairness to [Respondents] in allowing [Petitioner] to file his [petition] under a pseudonym.” *A.B.*, 2023 WL 6160838, at \*2.

#### **V. Other Factors Weigh in Favor of Granting Petitioner’s Motion**

The *Plaintiff B* factors are not exhaustive; rather, the Eleventh Circuit commands a comprehensive review of the totality of the circumstances when determining whether proceeding anonymously is warranted. *Plaintiff B*, 631 F.3d at 1316. Here, two additional circumstances weigh in favor of granting Petitioner’s motion: disclosing Petitioner’s identity will add nothing to public understanding of the issues in this case; and requiring disclosure of Petitioner’s name could very well jeopardize his pursuit of the relief he seeks.

First, in contrast with the Petitioner’s heightened interest in confidentiality discussed in the previous section, the public’s interest in knowing his identity 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 Petitioner will add little to the public understanding of the case. *See, e.g., Wantong*, 2025 WL 712762, at \*2 (granting motion to proceed anonymously while noting that the proceedings would otherwise “remain open to the public”); *see also Doe v. CoreCivic, Inc.*, No. 20-cv-01828, 2020 WL 3640058, at \*2 (S.D. Tex. July 6, 2020) (finding public interest weighed in favor of anonymity when “most of the pertinent facts [are] made on the public record” and the

only non-public aspect “is [plaintiff’s] actual identity.”). 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.

Second, should this Court deny Petitioner’s motion to proceed pseudonymously, he would be deterred from seeking relief here. “Courts have generally recognized the *in terrorem* effect of inquiring into a party’s immigration status when irrelevant to any material claim” that would “present a danger of intimidation that would inhibit plaintiffs in pursuing their rights.” *Topo v. Dhir*, 210 F.R.D. 76, 78 (S.D.N.Y. 2002) (cleaned up); *see also C. Ala. Fair Housing Ctr. v. Magee*, No. 2:11-cv-982-MHT, 2012 WL 705675, at \*2 (M.D. Ala. Mar. 5, 2012) (granting protective order regarding plaintiffs’ immigration-related information due to the “*in terrorem* impact” of disclosure of such information); *E.E.O.C. v. DiMare Ruskin, Inc.*, No. 2:11-cv-158-FtM-99SPC, 2012 WL 12067868, at \*3–5 (M.D. Fla. Feb. 15, 2012) (similar); *Zeng Liu v. Donna Karan International, Inc.*, 207 F. Supp. 2d 191, 193 (S.D.N.Y. 2002) (finding that disclosing immigration status when not relevant to the case presents a “danger of intimidation . . . [that] would inhibit plaintiffs in pursuing their rights”); *CoreCivic, Inc.*, 2020 WL 3640058, at \*2 (“important to preventing additional psychological harm and humiliation.”). As discussed above, though Petitioner’s immigration status is merely collateral to his claims challenging the lawfulness of the Proclamation, Petitioner faces a real threat of removal from the United States, danger in his home country, or harassment in the United States were he to participate publicly in constitutional litigation of extreme importance. Therefore, Petitioner has strong justification for his desire to proceed anonymously, and would be deterred from bringing the full scope of claims if forced to

proceed publicly.

As stated above, while the *issues* in this lawsuit are of substantial public interest, Petitioner's *identity* will add little to the public understanding of this case.

### CONCLUSION

Petitioner respectfully requests that this Court grant his motion to permit him to proceed under a pseudonym. The Court should also require the government to keep his identity confidential and prohibit any retaliatory actions.

Dated: April 30, 2025

Respectfully submitted,

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