

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

SOUTHEASTERN SYNOD OF THE
EVANGELICAL LUTHERAN CHURCH
IN AMERICA *et al.*,

Plaintiffs,

v.

STEVEN R. FINNEY *et al.*,

Defendants.

Case No.: 3:25-cv-684

**PLAINTIFF JOHN DOE’S MOTION TO PROCEED UNDER A PSEUDONYM AND
INCORPORATED MEMORANDUM OF POINTS AND AUTHORITIES**

Plaintiff John Doe rents space in his family home to his daughter and son-in-law, providing them with a safe and affordable place to live. With the passage of Section 5 of Tennessee Senate Bill 392, *see* 2025 Tenn. Pub. Acts, ch. 424, § 5, Doe worries that his supportive act could become a crime: Because his son-in-law is an asylum seeker who entered the United States without authorization, Doe fears that renting space to his family could be considered “human smuggling” under the new law. Doe brings this suit to challenge the constitutionality of the law, arguing in relevant part that it violates the Supremacy Clause by attempting to regulate matters that are exclusively reserved to the federal government and violates the Due Process Clause because it is impermissibly vague. By participating in this suit, however, Doe risks not only prosecution under the law but also retaliation and harassment against him and his family by the U.S. government and members of the public. Doe therefore respectfully asks this Court to allow him to proceed through

a pseudonym. Plaintiffs Garrett Causey and the Southeastern Synod of the Evangelical Lutheran Church in America do not seek to appear under pseudonyms.

ARGUMENT

Although Rule 10(a) of the Federal Rules of Civil Procedure generally requires that a complaint include the name and residence of the filing party, “[u]nder certain circumstances, ... the district court may allow a plaintiff to proceed under a pseudonym.” *D.E. v. Doe*, 834 F.3d 723, 728 (6th Cir. 2016). Ultimately, the question for the Court is whether the plaintiff’s “privacy interests substantially outweigh the presumption of open judicial proceedings.” *Doe v. Porter*, 370 F.3d 558, 560 (6th Cir. 2004). In making that determination, courts in this circuit consider a number of factors. These include, but are not limited to, “(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.* (citing *Doe v. Stegall*, 653 F.2d 180, 185-86 (5th Cir. Unit A Aug. 1981)). Here, the weight of the *Porter* factors, as well as the broader public interest in testing the constitutionality of Tennessee’s law, counsels strongly in favor of allowing Doe to proceed anonymously.

The first *Porter* factor supports pseudonymity because Doe seeks to challenge purely governmental activity: enforcement of a new state law. *See Doe v. Univ. of Pittsburgh*, No. 17-CV-0213, 2018 WL 1312219, at *2 (W.D. Mich. Mar. 14, 2018) (“Courts are generally less likely to grant a plaintiff permission to proceed anonymously when the plaintiff sues a private individual than when the action is against a governmental entity seeking to have a law or regulation declared

invalid.” (internal quotation marks omitted)). And Doe sues only government officials in their official capacity, so the case does not implicate any of the reputational concerns that private defendants may have when facing suit. *See Ramsbottom v. Ashton*, No. 21-CV-0272, 2021 WL 2651188, at *4 (M.D. Tenn. June 28, 2021). This is the quintessential type of suit in which courts in this circuit have recognized that pseudonymity is appropriate. Indeed, as discussed in further detail below, this is the “exceptional case[] where plaintiffs are suing to challenge a government activity which requires plaintiffs to reveal their beliefs about a particularly sensitive topic ... that could subject them to considerable harassment.” *Doe v. Kentucky Cmty. & Tech. Coll. Sys.*, No. 20-CV-0006, 2020 WL 998809, at *2 (E.D. Ky. Mar. 2, 2020) (internal quotation marks omitted). Doe is himself an immigrant and has family members with a variety of immigration statuses. Doe Decl. ¶¶ 2-3. Proceeding with the suit under his real name would require him to publicize sensitive, private information about himself and his family—information that could subject him to retaliation, public attacks, and stigmatization. *Id.* ¶¶ 8-10. The first *Porter* factor therefore weighs strongly in favor of pseudonymity.

For similar reasons, the second *Porter* factor also supports pseudonymity. Doe seeks to proceed under a pseudonym in order to protect the details of his immigration status and that of his family members, information that is of the “utmost intimacy.” *Porter*, 370 F.3d at 560. “[C]ourts have repeatedly recognized that a plaintiff’s vulnerable immigration status is sufficiently sensitive and personal in nature to warrant the use of a pseudonym.” *C.M. v. United States*, No. 21- CV- 0234, 2021 WL 1822305, at *2 (W.D. Tex. Mar. 31, 2021). The same is true for the immigration statuses of plaintiffs’ family members. *See Int’l Refugee Assistance Project (IRAP) v. Trump*, No. 17-CV-0361, 2017 WL 818255, at *2 (D. Md. Mar. 1, 2017). Because revealing information about

immigration statuses “could lead to criminal prosecution, harassment, and intimidation,” federal courts routinely “permit the plaintiffs to proceed anonymously in immigration-related cases.” *Hisp. Int. Coal. of Ala. v. Governor of Alabama*, 691 F.3d 1236, 1247 & n.8 (11th Cir. 2012) (collecting cases); *see also, e.g., Plyler v. Doe*, 457 U.S. 202, 202 (1982); *Does v. Advanced Textile Corp.*, 214 F.3d 1058, 1063 (9th Cir. 2000).

Doe and his family risk such retaliation, harassment, and discrimination because of his participation in this lawsuit. Doe has undocumented family members, *see* Doe Decl. ¶¶ 3, 8, and only recently achieved permanent resident status himself, *id.* ¶ 2. He fears that if his identity were linked to this lawsuit, his family members could become “a target for immigration enforcement” and could be detained or deported, tearing the family apart. *Id.* ¶ 9. He also fears for his own safety, since he has “heard about even citizens being detained by immigration authorities.” *Id.*

Doe additionally fears harassment and retaliation from the public if he were to proceed under his own name because immigration is a highly charged, politically sensitive issue. *Id.* ¶ 10. “The intensity around immigration issues is very high,” and laws and policies affecting immigrants—including this bill—have received significant media coverage and public attention. *Id.* That attention is accompanied by discrimination: As Doe has seen, “[e]ven people with legal status are being racially profiled right now and targeted and harassed.” *Id.* If Doe were to proceed under his own name, he fears that he and his family would face similar abuse and threats. *Id.*

That is exactly the outcome that pseudonymity is designed to prevent. The “most compelling” cases for pseudonymity “involve matters which are highly sensitive, such as social stigmatization [or] real danger of physical harm,” just as Doe faces here. *Doe v. Blue Cross & Blue Shield of R.I.*, 794 F. Supp. 72, 74 (D.R.I. 1992). Indeed, in a very similar challenge to local

ordinances that barred renting housing to undocumented individuals, a court allowed plaintiffs to proceed under a pseudonym because of their “compelling” fear that participation in the lawsuit “would make them easy targets of intense anti-immigrant and anti-Latino sentiment” and could “affect their basic rights to shelter, education, and a livelihood.” *Lozano v. City of Hazleton*, 496 F. Supp. 2d 477, 512 (M.D. Pa. 2007), *aff’d in relevant part*, 620 F.3d 170 (3d Cir. 2010), *vacated in part on other grounds*, 563 U.S. 1030 (2011). Doe should not be “forced to choose” between challenging an unconstitutional law and exposing himself to retaliation and harassment. *Padres Unidos de Tulsa v. Drummond*, No. 24-CV-0511, 2025 WL 1444433, at *3 (W.D. Okla. May 20, 2025).

The third *Porter* factor also weighs strongly in favor of pseudonymity. Section 5, which is set to go into effect on July 1, 2025, creates a new state immigration crime of “human smuggling.” Under Section 5, it is a felony for any “person,” acting “for the purpose of commercial advantage or private financial gain,” to “harbor[]” “an individual that the person knows has illegally entered or remained in the United States, as determined by” U.S. Immigration and Customs Enforcement (“ICE”). 2025 Tenn. Pub. Acts, ch. 424, p. 2, § 5(a)(2). Section 5 defines “harbor” to mean “to *provide shelter to or* conceal the whereabouts of an individual whom the person knows has illegally entered or remained in the United States, as determined by” ICE. *Id.* § 5(d) (emphasis added).

Doe’s oldest daughter and her husband live with him in his home in Tennessee and help with the household expenses, including by paying rent. Doe Decl. ¶¶ 3-4. Doe’s son-in-law is an asylum seeker who unlawfully entered the United States. *Id.* ¶ 3. Despite the new law, Doe does not intend to evict his daughter and son-in-law; he strongly believes that families belong together

and wants to support his children however he can. Doe therefore reasonably fears that he could be prosecuted under the “human smuggling” law for providing shelter to his daughter and son-in-law because they are paying rent and because Doe knows about his son-in-law’s unlawful entry and lack of immigration status. *Id.* ¶ 6. Pursuing this pre-enforcement challenge to Section 5 will require Doe to disclose that his living situation could violate the new law, exposing him to the risk of criminal prosecution if he were not able to proceed under a pseudonym. *See Doe v. Southfield Pub. Sch.*, No. 24-10760, 2024 WL 1526084, at *1 (E.D. Mich. Apr. 8, 2024) (holding that the third *Porter* factor weighed in favor of anonymity where there were “allegations related to the potential of criminal charges”).

Finally, although the fourth *Porter* factor does not weigh in Doe’s favor because he is an adult, that alone is not a ground to deny pseudonymity. *See Doe I v. Gupta*, No. 22-CV-1122, 2023 WL 2734674, at *2 (N.D. Ohio Mar. 31, 2023) (explaining that “being an adult does not preclude Plaintiffs from proceeding anonymously” and citing cases in which adults were allowed to proceed under a pseudonym). “Rather, the court is concerned with the extent of the plaintiff’s privacy interest.” *Id.* Here, Doe has demonstrated a powerful privacy interest and a real fear of retaliation, harassment, and criminal prosecution if he were to proceed under his own name. The Court should therefore allow him to proceed under a pseudonym.

The broader public interest also weighs in favor of allowing Doe to remain anonymous. The purely legal nature of the case means that the public has “an atypically weak” interest in knowing the plaintiffs’ identities, because that information is not relevant to the ability of members of the public to understand and follow the case. *Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185, 190 (2d Cir. 2008); *see also Lozano*, 496 F. Supp. 2d at 512 (“The decision in this case does

not turn on judgements about the credibility of particular witnesses, but instead on an assessment of the parties' legal arguments."'). And allowing Doe to proceed under a pseudonym would *vindicate* the public's interest in "testing the constitutionality" of the state law. *Lozano*, 496 F. Supp. 2d at 512. "[W]here a plaintiff attacks government activity," and especially when he "represents a minority interest (and may be subject to stigmatization) ... there is arguably a public interest in a vindication of his rights." *EW v. N.Y. Blood Ctr.*, 213 F.R.D. 108, 111 (E.D.N.Y. 2003). Requiring Doe to disclose his identity and make himself and his family possible targets for retaliation "could dissuade [him] from pursuing [his] rights in court." *IRAP*, 2017 WL 818255, at *2; *see also Lozano*, 496 F. Supp. 2d at 513-14 ("[F]ederal courts have recognized that inquiries into immigration status can have an *in terrorem* effect, limiting the willingness of plaintiffs to pursue their rights out of fears of the consequences of an exposure of their position.") That would leave unrepresented the voices of people like Doe, whose support of a family member is criminalized under the unconstitutional new state law. Ensuring that his important perspective is included in this suit advances the public interest.

For the reasons stated above, the Court should permit Plaintiff John Doe to proceed under a pseudonym.

Respectfully submitted this 23rd of June, 2025.

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**Motion for admission pro hac vice forthcoming.*

CERTIFICATE OF SERVICE

I hereby certify that, on June 23, 2025, I electronically filed the foregoing motion and all attachments with the Clerk of the Court via the Court's electronic case filing system. There is currently no Counsel of Record for Defendants. I certify that I will serve the foregoing and all attachments on Defendants by first class mail to:

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s/ Michael C. Holley
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