

The Plaintiffs-Petitioners (“Plaintiffs”) move for permission to file a Class Action Complaint for Declaratory and Injunctive Relief and Petition for Writs of Habeas Corpus (“Complaint”) under pseudonyms they have collected for themselves in order to protect their privacy regarding their health conditions. Specifically, Plaintiffs John Doe and John Roe are HIV-positive incarcerated people who seek to represent a proposed class of incarcerated people housed at Connecticut Department of Corrections (“DOC”) facilities in an action for relief relating to the COVID-19 pandemic. Because the Second Circuit has held that HIV-positive individuals have a right to privacy with regard to their HIV status, and because Plaintiffs’ dispute with Defendants-Respondents is a purely legal one that does not depend on their actual identities, this Court should grant Plaintiffs’ motion and permit Doe and Roe to file their Complaint pseudonymously.

The Second Circuit permits parties to utilize pseudonyms in certain circumstances in order to protect those who appear in federal court. *Sealed Plaintiff v. Sealed Defendant*, 537 F.3d 185, 190 (2d Cir. 2008). In deciding whether a plaintiff may be allowed to maintain an action under a pseudonym, “the plaintiff’s interest in anonymity must be balanced against both the public interest in disclosure and any prejudice to the defendant.” *Id.* Permission to proceed pseudonymously is granted at the trial judge’s discretion following a balancing test of factors including “whether the litigation involves matters that are highly sensitive and [of a] personal nature,” “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,” “whether identification presents other harms and the likely severity of those harms,” “whether the plaintiff is particularly vulnerable to the possible harms of disclosure,” “whether defendant is prejudiced by allowing plaintiff to press claims anonymously,” “whether the public’s interest in the litigation is furthered by requiring

the plaintiff to disclose his identity” and “whether, because of the purely legal nature of the issues presented or otherwise, there is an atypically weak public interest in knowing the litigants’ identities.” *Id.* (internal quotations omitted) (alterations in original).

The relevant factors weigh in favor of allowing Plaintiffs to proceed pseudonymously. As an initial matter, the Second Circuit and this Court have repeatedly held that “[i]ndividuals who are infected with the HIV virus clearly possess a constitutional right to privacy regarding their condition.” *Doe v. City of New York*, 15 F.3d 264, 267 (2d Cir. 1994); *see also Matson v. Board of Educ. of City Sch. Dist. of N.Y.*, 631 F.3d 57, 70–71 (2d Cir. 2011); *Reynolds v. Semple*, 2019 WL 5394675, at *7 (D. Conn. Oct. 22, 2019). This constitutional right to privacy is pertinent to a number of factors. First, there can be no dispute that Plaintiffs’ HIV status is “highly sensitive and [of a] personal nature.” *Sealed Plaintiff*, 537 F.3d at 190. Further, identification of Plaintiffs Doe and Roe poses risk of not only retaliatory harm, but potentially other severe physical and mental harm because of their HIV status. *Id.* The Second Circuit has recognized these risks: “an individual revealing that [h]e is HIV seropositive potentially exposes [him]self not to understanding or compassion but to discrimination and intolerance,” *Matson*, 631 F.3d at 64 (internal quotation omitted), and Plaintiffs themselves are “particularly vulnerable to the possible harms of disclosure.” *Sealed Plaintiff*, 537 F.3d at 190.

The risk of prejudice to Defendants-Respondents, if any at all, is minimal because Defendants-Respondents know Plaintiffs’ identities. Allowing Doe and Roe to proceed pseudonymously does not impact Defendants-Respondents’ defense in this case. Further, Plaintiffs Doe and Roe seek to proceed under a pseudonym because their petition poses a purely legal question that does not turn on any feature of their actual identities—whether the conditions of their confinement during the COVID-19 crisis violates their Eighth and Fourteenth

Amendment rights and those of the class they seek to represent. The public's interest in their petition lies more in the resolution of the legal issue it poses than in the identities of Plaintiffs Doe and Roe themselves. Therefore, the "public's interest in the litigation" is not "furthered by requiring [Plaintiffs Doe and Roe] to disclose [their] identit[ies]." *Id.*

Finally, Plaintiffs Doe and Roe have no illegitimate motive in proceeding under a pseudonym. Both individuals are known to and under the supervision of Defendants-Respondents. Plaintiffs are using this petition as a means of being treated in accordance with the Constitution and to reveal the risk the COVID-19 to themselves and the class they represent.

For the reasons set forth above, the Court should grant Plaintiffs' motion to proceed under a pseudonym.

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