

No. 23-1270

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IN THE  
**Supreme Court of the United States**

PIERRE YASSUE NASHUN RILEY,  
*Petitioner,*

*v.*

MERRICK GARLAND, U.S. ATTORNEY GENERAL,  
*Respondent.*

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**MOTION FOR LEAVE TO FILE PORTIONS OF JOINT  
APPENDIX UNDER SEAL**

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Pursuant to Rules 21 and 34.6(7), petitioner (“Riley”) respectfully moves the Court to seal certain portions of the appendix materials in this case. The confidential material is included in the joint appendix required under Rule 26 and in the petition appendix submitted in paper form. Riley is providing with this motion a redacted version of the former that he will file electronically as Exhibits A and B, consistent with Rule 34.6(7)(d), and he has previously filed a redacted version of the petition appendix. The grounds for this motion are as follows:

1. This case arises from a petition that Riley submitted to the Fourth Circuit, seeking review of an immigration case in which the Board of Immigration Appeals rejected his claim to withholding of removal. The Fourth Circuit dismissed that petition for lack of jurisdiction, an outcome that Riley contends is contrary to the governing statute. (Pet. for Writ of Cert. 7.)

2. The Court granted *certiorari* on November 4, 2024. Oral argument has not yet been scheduled.

3. Riley’s claim for withholding of removal is based on the Convention Against Torture and on the significant likelihood that if he is returned to Jamaica, a particular individual who is associated with that nation’s government and powerful within the nation’s political structures will order Riley to be killed, as that individual has already caused the murder of several of Riley’s family members.

4. Riley presented detailed information about these assertions in his testimony at a hearing before an immigration judge. The material that he asks the Court to seal is the pertinent excerpt from the transcript of that hearing. That material is

important to place before this Court for its understanding of the character of Riley's substantive claims, illustrative of the types of claims that Congress either did (on Riley's view) or did not (per the Fourth Circuit) subject to judicial review.

5. At the hearing, Riley referred to this individual, the person who will cause him to be killed, by name. Riley also provided certain personal details about him that would, even without the name, make it feasible to identify the individual.

6. It is important for Riley's safety that those details, including the name, remain confidential. Public electronic disclosure of those details presents a significant risk of drawing the attention of the threatening individual, and alerting him to the allegations Riley has made. Those outcomes will magnify the danger to Riley and his family members. Meanwhile, those identifying details are not important to the deliberations of the Court. The nature of the allegations is potentially pertinent, but not the specific identity of the government-associated individual in Jamaica who generates the threat to Riley's life.

7. "[T]he right to inspect and copy judicial records is not absolute." *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978). The lower courts are in accord that preventing a serious danger to individual safety is a legitimate reason for restricting that right. *See, e.g., United States ex rel. Lloyd v. Vincent*, 520 F.3d 1272, 1274 (2d Cir. 1975) ("[S]afeguarding his life provides an adequate justification for excluding the public for that limited period while an undercover agent is testifying."); *In re Copley Press, Inc.*, 518 F.3d 1022, 1029 (9th Cir. 2008) (holding district court abused its discretion by "unsealing those parts of the documents that concern ...

people in danger”); *Riker v. Federal Bureau of Prisons*, 315 F. App’x 752 (10th Cir. 2009) (noting a district court had “correctly balanced the public’s interest in access against the interest of ensuring Mr. Riker’s safety”). Congress has also deemed such dangers a legitimate reason for restricting public access to government papers; the Freedom of Information Act specifically exempts law enforcement records whose disclosure “could reasonably be expected to endanger the life or physical safety of any individual.” 5 U.S.C. § 552(b)(7).

8. Consistent with those views, Riley respectfully submits that the enhancement of the risk to his life, and that of his family members in Jamaica, that would result from public disclosure of the identity of the individual at issue is a sufficient and legitimate reason for this Court to seal the materials revealing that identity.

9. In the Fourth Circuit, case materials were not formally sealed, but they were confidential pursuant to Local Rule 25(c)(H). That rule protects filings in immigration cases from remote electronic access, just as Federal Rule of Civil Procedure 5.2(c) does. This Court generally incorporates the latter into its own rules. Rule 34.6(6).

10. Unlike the Fourth Circuit, this Court’s rules do not generally continue that protection once a case has been accepted for oral argument. Rule 34.6(6). After a case is set for oral argument, the Court requires subsequent filings to be made electronically, *id.*, and they will then be available to the public through remote electronic access.

11. To prevent the serious risk identified above, Riley asks the Court to seal materials in the case that disclose the identity of the government-associated individual described above. Those materials are as follows:

(a) The Petition Appendix, which as filed, includes the opinion of the immigration judge in this matter. The immigration judge's opinion states the name of the individual. Riley has already filed a redacted version of the full Petition Appendix, in which the only redacted information was the individual's identity.

(b) The hearing transcript portion that will be included in the Joint Appendix to the merits briefs. As noted above, that portion also states the name, and also includes certain other information that could on its own reveal the individual's identity.

(c) The transcript of the reasonable fear interview that will be included in the Joint Appendix to the merits briefs. This includes the name and other certain identifying information of the individual.

(d) Riley's I-589 Application, which will be included in the Joint Appendix to the merits briefs. This document includes the name of the individual.

(e) Riley's Alien Registration Number, which appears in multiple immigration forms that will be included as part of the Joint Appendix.

Riley is submitting with this motion a redacted version of the Joint Appendix that he proposes to file electronically.

12. Respondent does not object to this motion for leave to redact additional information and does not intend to file a response. The court-appointed *amicus*, similarly, does not object to this motion and does not intend to file a response.

13. In the proceedings before the Fourth Circuit, both parties refrained from disclosing the sensitive information in their filings, and the Court of Appeals similarly refrained. Given that practice, Riley does not anticipate that sealing or redaction of other subsequent filings in this Court, beyond those addressed by this motion, will be necessary.

January 3, 2025

Respectfully submitted,

*/s/ Keith Bradley*

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