United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
November 4, 2026
Thomas B. Plunkett, III
Clerk

No. 25-60589

JOHN DOE,

Plaintiff—Appellee,

versus

JANE ROE,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:24-CV-547

Before ELROD, *Chief Judge*, and KING and STEWART, *Circuit Judges*.

PER CURIAM:[*]

After receiving notice of Jane Roe's impending California lawsuit involving allegations of sexual assault and sexual harassment, John Doe sued Roe in the Southern District of Mississippi, alleging that Roe was attempting to extort and defame him. Roe moved to proceed pseudonymously in the Mississippi lawsuit. The district court denied her permission to do so. Roe appeals that decision, raising several concerns with the district court's

[*] This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

analysis. Because we agree with some of Roe's arguments, we vacate and remand for the district court to reconsider whether Roe should be allowed to proceed pseudonymously.

I

We have jurisdiction over this interlocutory appeal because an order denying pseudonymity is an appealable collateral order. *Doe v. Stegall*, 653 F.2d 180, 183 (5th Cir. Unit A 1981) (citing *S. Methodist Univ. Ass'n of Women L. Students v. Wynne & Jaffe*, 599 F.2d 707, 712 (5th Cir. 1979)).

II

A

Whenever a party seeks pseudonymity, courts must determine whether "the normal practice of disclosing the parties' identities yields to a policy of protecting privacy in a very private matter." *Stegall*, 653 F.2d at 185 (internal quotation marks and citation omitted). To aid in this determination, we give "considerable weight" to the three *Stegall* factors: "(1) whether the [party] is challenging governmental activity; (2) whether the [party] will be required to disclose information of the utmost intimacy; and (3) whether the [party] will be compelled to admit [her] intention to engage in illegal conduct, thereby risking criminal prosecution." *W.M.M. v. Trump*, 187 F.4th 699, 704–05 (5th Cir. 2026) (en banc) (alterations adopted and internal quotation marks and citation omitted). While helpful, these factors are not a "hard and fast formula for ascertaining whether a party may sue anonymously." *Stegall*, 653 F.2d at 186.

We review the denial of a party's motion to proceed pseudonymously for abuse of discretion. *Id.* at 184. "A district court abuses its discretion if it: (1) relies on clearly erroneous factual findings; (2) relies on erroneous conclusions of law; or (3) misapplies the law to the facts." *June Med. Servs.,*

LLC v. Phillips, 22 F.4th 512, 519 (5th Cir. 2022) (quoting *Bradley ex rel. AJW v. Ackal*, 954 F.3d 216, 224 (5th Cir. 2020)).

B

The district court concluded that Roe was not entitled to pseudonymity by weighing the three *Stegall* factors and two additional factors—Roe's status as a defendant and waiver. On appeal, Roe raises several concerns with the district court's analysis. We agree with some of her arguments and remand this case to the district court to reconsider whether Roe should be allowed to proceed anonymously in light of the clarifications we provide here.

1

First, Roe argues that her status as a defendant should not weigh against her in determining whether she should be allowed to proceed under a pseudonym. We agree. Roe's defendant status is entitled to no weight in determining the appropriateness of pseudonymity. That the *Stegall* factors (and many subsequent cases) used the word "plaintiff" in articulating the test merely reflects that it is often plaintiffs who are seeking to proceed pseudonymously. *See, e.g.*, *Wynne & Jaffe*, 599 F.2d at 708–09; *Stegall*, 653 F.2d at 181–82; *W.M.M.*, 187 F.4th at 704–05. That does not mean that *only* plaintiffs may litigate under a pseudonym. Indeed, *Stegall* itself used the word "party" rather than "plaintiff" several times in discussing the relevant analysis. *See, e.g.*, 653 F.2d at 185 (introducing the "factors presented in cases permitting *party* anonymity" (emphasis added)); *id.* ("*Party* anonymity does not obstruct the public's view of the issues joined or the court's performance in resolving them." (emphasis added)). A defendant is no less deserving of pseudonymity than a plaintiff simply by virtue of her being haled into court first.

Second, as is relevant to the second *Stegall* factor, Roe argues that allegations of sexual assault involve matters of the utmost intimacy. We agree. There is no doubt that requiring alleged rape and sexual assault victims to proceed "under their real identities would require them to disclose information of the utmost intimacy." *See W.M.M.*, 187 F.4th at 705 (internal quotation marks and citation omitted). It is no surprise, then, that numerous courts have allowed alleged victims of sexual misconduct to proceed under a pseudonym, "including when they are defendants being sued for libel and related torts." Eugene Volokh, *The Law of Pseudonymous Litigation*, 73 Hastings L.J. 1353, 1409 (2022); *accord id.* at 1430–34 (collecting cases); *cf. Doe v. Blue Cross & Blue Shield United of Wis.*, 112 F.3d 869, 872 (7th Cir. 1997) ("[F]ictitious names are allowed when necessary to protect the privacy of children, rape victims, and other particularly vulnerable parties or witnesses.").

Relatedly, Roe argues that she took affirmative steps to maintain her anonymity, that her identity is not public, and that she has consistently demonstrated a strong desire for confidentiality. She raises these points because the district court found that her privacy interest under the second *Stegall* factor was "weakened" because the "cat" was already "out of the bag" with respect to her identity. In so finding, the district court relied on the great detail with which Roe pleaded her California complaint, Doe's public filing of an amended complaint in this case with Roe's real name, Doe's presentation of Roe's real name in open court in this case, and Roe's inadvertent filing of documents with her name in the California case.

We agree with Roe. To start, we are not persuaded that the proverbial cat is out of the bag here. True, publicly available information cannot be obscured by courts. *See June Med. Servs.*, 22 F.4th at 520. However, that

internet sleuths might speculate that Roe is a particular person because her California complaint "lines up with [her] public profile" is not the same as a public broadcasting of Roe's certain identity. As to the fact that Roe's name was a matter of public record for short periods, that was either because of Doe's actions (which Roe objected to), or Roe's inadvertent disclosures which counsel corrected and constituted no waiver (which we address below). In sum, we agree that Roe's privacy interest under *Stegall*'s second factor should not be weakened for these reasons.

3

Last, Roe argues that she did not waive her right to proceed anonymously. Again, we agree. Roe never waived her ability to request pseudonymity because her conduct does not constitute an "intentional relinquishment" of that position. *See Johnson v. Zerbst*, 304 U.S. 458, 464 (1938). Roe's opposition to Doe's motion to proceed pseudonymously waived nothing because Roe's position was that *she* should be allowed to proceed pseudonymously while *he* should not be. And any confusion about Roe's position based on the precise language in her opposition brief was clarified by her own subsequent motions seeking to seal or redact Doe's amended complaint (which used Roe's real name) and to proceed pseudonymously. Further, Doe's use of Roe's real name in open court did not constitute waiver on Roe's behalf because, at the time, Doe had already publicly named Roe in his amended complaint, Roe had a pending motion seeking to seal or redact that amended complaint naming her, and Roe objected to the use of her name at the hearing (even if not as fast as a prudent attorney likely should have). Finally, we are not convinced that Roe's inadvertent disclosures of her real name in the California case and on this appeal constitute waiver. *Cf. Alldread v. City of Grenada*, 988 F.2d 1425, 1434 (5th Cir. 1993) (explaining, in the discovery context, that whether inadvertent disclosure constitutes waiver of privilege must be determined on

a case-by-case basis). The disclosures were unintentional, were made in portions of larger filings, and Roe took steps to correct the errors once becoming aware of them, resulting in the sealing and refiling of the documents. These facts do not demonstrate that Roe intentionally relinquished her request to proceed pseudonymously.

* * *

In light of the clarifications provided in this opinion, we find that it is appropriate to allow the district court to reconsider whether Roe should be permitted to proceed under a pseudonym in this case.[1]

III

We VACATE the district court's decision denying Roe leave to proceed under a pseudonym. The case is REMANDED for reconsideration of the issue and further proceedings consistent with this opinion. We express no view on the ultimate outcome of this issue.

[1] We acknowledge Doe's argument that allowing Roe to proceed under a pseudonym would be prejudicial to him. We think that argument is best left for the district court to address in the first instance on remand.