

No. 24-781

IN THE
Supreme Court of the United States

FIRST CHOICE WOMEN'S
RESOURCE CENTERS, INC.,

Petitioner,

v.

MATTHEW J. PLATKIN,
ATTORNEY GENERAL OF NEW JERSEY,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE THIRD CIRCUIT

**BRIEF OF *AMICUS CURIAE*
THE EQUAL PROTECTION PROJECT
IN SUPPORT OF PETITIONER**

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Cited Authorities

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 Statutes and Rules	
§ 1983	9
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 Other Authorities	
A10Networks.com, <i>Why are Government Agencies So Vulnerable to Hacking?</i> , https://www.a10networks.com/blog/why-are-government-agencies-so-vulnerable-to-hacking/ (last visited July 29, 2025)	4
ABC news, ‘Anonymous,’ author of <i>White House tell-all book</i> , revealed to be Miles Taylor, https://abcnews.go.com/Politics/anonymous-author-white-house-book-revealed-miles-taylor/story?id=73884296 (last visited July 29, 2025) . . .	16

Cited Authorities

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American Psychiatric Association, <i>While Most Americans Align With Close Family Members on Controversial Political Issues, One in Five Report Family Estrangement Based on These Topics</i> , https://www.everydayhealth.com/emotional-health/one-in-five-americans-estranged-over-political-disagreement/ (last visited July 29, 2025)	10
Catholic News Agency, <i>Senate Judiciary Committee: Anti-Catholic texts found in 13 more Biden-era FBI documents</i> , https://www.catholicnewsagency.com/news/264545/senate-judiciary-committee-anti-catholic-texts-found-in-13-more-biden-era-fbi-documents (last visited July 29, 2025)	7
CBS News, <i>Trump golf course suspect Ryan Routh charged with attempted assassination</i> , https://www.cbsnews.com/news/trump-attempted-assassination-suspect-ryan-routh-new-charges/ (last visited July 29, 2025)	11
Center for the Study of the American Constitution, <i>Pseudonyms and the Debate over the Constitution</i> , https://csac.history.wisc.edu/2022/07/22/pseudonyms-and-the-debate-over-the-constitution/ (last visited July 29, 2025) . . .	14

Cited Authorities

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City Journal, <i>Why Progressives Increasingly Support Violence</i> , https://www.city-journal.org/article/progressives-political-violence-donald-trump-assassination-attempt (last visited July 29, 2025)	12
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Peggy Fikac, <i>Texas AG releases voters' Social Security numbers in mix-up</i> , https://www.chron.com/news/houston-texas/article/texas-ag-releases-voters-social-security-numbers-3510642.php (last visited July 29, 2025)	5
https://www.atlantamagazine.com/news-culture-articles/behind-the-peachbreach-how-the-secretary-of-states-office-compromised-the-personal-data-of-georgias-registered-voters/ (last visited July 29, 2025)	5

Cited Authorities

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Infosecurity Magazine, <i>278% Rise in Leaked Government Records During Q1 of 2020</i> , https://www.infosecurity-magazine.com/news/rise-leaked-government-records/ (last visited July 29, 2025).....	3
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National Humanities Center, <i>Making the Revolution</i> , https://americainclass.org/sources/makingrevolution/rebellion/text2/text2.htm (last visited July 29, 2025)	13
Network Contagion Research Institute, <i>Assassination Culture Brief</i> , https://cbsaustin.com/news/nation-world/new-survey-reveals-disturbing-trend-in-support-of-political-violence-president-trump-left-of-center-elon-musk-liberal (July 29, 2025)	10
NPR, <i>Former airman Jack Teixeira sentenced to 15 years for leaking classified documents</i> , https://www.npr.org/2024/11/12/nx-s1-5188642/former-airman-jack-teixeira-sentenced-to-15-years-for-leaking-classified-documents (last visited July 29, 2025).....	8

Cited Authorities

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NPR, ‘ <i>Primary Colors</i> ’ Author Joe Klein On Anonymous Op-Ed, https://www.npr.org/2018/09/09/646018095/primary-colors-author-joe-klein-on-anonymous-op-ed (last visited July 29, 2025).	15
Abraham Lincoln, <i>First Inaugural Address</i> , https://avalon.law.yale.edu/19th_century/lincoln1.asp (last visited July 29, 2025)	12
OSI Beyond, <i>Why Nonprofits and Associations Are at a Higher Risk of Cyber-Attacks</i> , https://www.osibeyond.com/blog/why-nonprofits-and-associations-are-at-a-higher-risk-of-cyber-attacks/ (last visited July 29, 2025)	6
Pew Research Center, <i>Political Polarization in the American Public</i> , https://www.pewresearch.org/politics/2014/06/12/political-polarization-in-the-american-public/ (last visited July 29, 2025) . . .	9, 10
PropertyCasualty360, <i>The unique risk to nonprofits of a targeted cyber attack</i> , https://www.propertycasualty360.com/2018/01/12/the-unique-risk-to-nonprofits-of-a-targeted-cyber-attack/?slreturn=20210108 (last visited July 29, 2025).	6

Cited Authorities

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The New York Times, <i>I am part of the resistance inside the Trump Administration</i> , https://www.nytimes.com/2018/09/05/opinion/trump-white-house-anonymous-resistance.html (last visited July 29, 2025)	16
TIME, <i>A Year Later, Butler Shooting Marks the Defining Moment of Trump's Political Comeback</i> , https://time.com/7301662/donald-trump-butler-pa-assassination/ (last visited July 29, 2025)	11
United States Department of Homeland Security, <i>Anarchists and Rioters in Portland Illegally Dox ICE Officers and Federal Law Enforcement</i> , https://www.dhs.gov/news/2025/07/11/anarchists-and-rioters-portland-illegally-dox-ice-officers-and-federal-law (July 29, 2025)	11
Luke Wachob, <i>Protecting Anonymous Speech Used to be 'Common Sense'</i> , https://www.ifs.org/blog/protecting-anonymous-speech-used-to-be-common-sense/ (last visited July 29, 2025)	13

INTERESTS OF *AMICUS CURIAE*¹

The Equal Protection Project (EPP) is a project of the Legal Insurrection Foundation, a non-profit devoted to the fair treatment of all persons without regard to race or ethnicity. EPP’s guiding principle is that there is no “good” form of racism. The remedy for racism is never more racism. Since its creation, EPP has filed civil rights complaints against more than one hundred governmental or federally funded entities that have engaged in discriminatory conduct in more than five hundred discriminatory programs.

EPP has also previously filed briefs *amicus curiae* before this Court in important cases. *See, e.g., Mahmoud v. Taylor*, 145 S. Ct. 2332, 2025 WL 815221 (Mar. 10, 2025); *Students for Fair Admissions v. Harvard*, 600 U.S. 181, 2022 WL 2919681 (May 9, 2022). As an organization reliant on tax-exempt donor contributions, EPP has an interest in the Court addressing the burden placed on the First Amendment freedoms of anonymous donors through disclosure of identifying information. This brief will shed additional light not only on the importance of donor anonymity in the modern era, but on the strong tradition of anonymous political association in the United States.

1. Under Rule 37.6, *Amicus* affirms that no party’s counsel authored this brief in whole or in part, and no person or entity, other than *Amicus* and its counsel, made a monetary contribution intended to fund the preparation or submission of this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

At stake in this case is not only the free association rights of Americans expressing themselves anonymously through donations to charitable organizations, but the ability of those organizations to continue serving the public interest. If the Attorney General of New Jersey, and officials in other states, can force the disclosure of the identities of private donors, he can chill those individuals from continuing to participate through donations. If those donations end, organizations like First Choice Women's Resource Centers, Inc., may cease to exist or curtail their charitable work. As this Court made clear in *Americans for Prosperity*, even *the threat* of disclosure is likely to scare away donors, 594 U.S. 595, 618–19 (2021).

This brief offers three additional points to the Petitioner's briefing to emphasize these issues.

First, we address the *high* likelihood of such potentially government-held private donor information becoming public through technological access to online data or leaks. Second, we examine the worsening ideological divide, and use of political violence, in the United States. Such targeting is likely to occur if and when otherwise anonymous donor information becomes public. Third, we address the long-held tradition in the United States of anonymous political participation. Indeed, many of our Founding Fathers exercised this exact option in order to protect themselves and their property from reprisal.

For these and the additional reasons discussed in the Petitioner's briefing, the Court should rule in favor of the

Petitioner and protect the First Amendment associational freedoms of anonymous donors.

ARGUMENT

I.

Anonymous donor information becoming public is not only possible, but probable.

The Attorney General of New Jersey may assure targeted charitable organizations that he can be trusted with their otherwise anonymous donors' sensitive personal information. But the government is not only ill-prepared to stop the spread of sensitive donor information, but in terms of animus towards disfavored associations, unwilling to do so. The government may also be powerless to stop this information becoming public given that politically motivated cyber criminals have the knowledge, ability, and opportunity to expose it to the public.

In 2020, reports indicated the number of exposed government records increased two hundred and seventy eight percent from four and half million breaches of records in the first quarter of 2019, to seventeen million breaches in the first quarter of 2020.² The main reasons for this high level of government records' vulnerability is a combination of inadequate IT security expenditure on new equipment, insufficient staff training, and overly

2. Infosecurity Magazine, *278% Rise in Leaked Government Records During Q1 of 2020*, <https://www.infosecurity-magazine.com/news/rise-leaked-government-records/> (last visited July 29, 2025).

bureaucratic and antiquated processes.³ A “Government Cybersecurity Report” by Security Scorecard notes that government organizations are a primary target given the reams of personally identifiable information stored with their poorly maintained systems. *Id.*

The list of government data breaches over the last several decades is long, but several examples help demonstrate the scope of the problem:

- U.S. Postal Service (DC): 60,000,000 records (2018).
- Government Payment Service, Inc. (IN): 14,000,000 records (2018).
- Los Angeles County 211 (CA): 3,200,000 records (2018).
- California Secretary of State (CA): 19,200,000 records (2017).
- Office of Child Support Enforcement (WA): 5,000,000 records (2016).
- Washington Department of Fishing and Wildlife (WA): 2,435,452 (2016).
- Georgia Secretary of State (GA): 6,000,000 records (2015).

3. A10Networks.com, *Why are Government Agencies So Vulnerable to Hacking?*, <https://www.a10networks.com/blog/why-are-government-agencies-so-vulnerable-to-hacking/> (last visited July 29, 2025).

- Office of Personnel Management (DC): 21,500,000 records (2015).
- Office of Personnel Management (DC): 4,200,000 records (2015).
- U.S. Postal Service (DC): 3,650,000 records (2014). *Id.*

Specific examples are even more revealing of the stakes.

In April 2012, the Texas attorney general inadvertently handed over the Social Security numbers of 13 million Lone Star State voters during discovery in a voting-rights case.⁴ The infamous “Peach Breach” resulted from the Georgia Secretary of State’s inadvertent release of 6.1 million voter files, including voters’ Social Security numbers, to various media outlets.⁵ If state governments cannot be trusted to secure citizens’ social security numbers, how can they be relied upon to protect participation in donations to charitable organizations?⁶

4. Peggy Fikac, *Texas AG releases voters’ Social Security numbers in mix-up*, <https://www.chron.com/news/houston-texas/article/texas-ag-releases-voters-social-security-numbers-3510642.php> (last visited July 29, 2025).

5. <https://www.atlantamagazine.com/news-culture-articles/behind-the-peachbreach-how-the-secretary-of-states-office-compromised-the-personal-data-of-georgias-registered-voters/> (last visited July 29, 2025).

6. The federal government has also fared no better at effectively protecting private information from data breaches. *See, e.g., In re Office of Personnel Management Data Security Breach Litigation*, 928 F.3d 42, 49 (D.C. Cir. 2019) (cyber attackers breached multiple databases of the U.S. Office of Personnel

Many cyber criminals specifically seek the private information of supporters of charitable organizations with potentially controversial viewpoints.⁷ There is no indication that these kinds of attacks will lessen in the future. On the contrary, they are only expected to increase. *See* Karen L. Sorrell, The unique risk to nonprofits of a targeted cyber-attack, Property Casualty.⁸

Of course, this does not account for *intentional* government leaks, or the use of government-held information to target disfavored groups, that have become all too prevalent in recent years.

In February 2023, the FBI retracted a memo from the Richmond, Virginia, field office that detailed an investigation into so-called “radical traditionalist” Catholics after the internal document was leaked to the

Management stealing sensitive personal information of more than twenty one million past, present, and prospective government workers); *In re Science Applications International Corp. Backup Tape Data Theft Litigation*, 45 F. Supp. 3d 14, 20 (D.D.C. 2014) (government data breach involving 4.7 million members of the United States military and their families); *National Org. for Marriage, Inc. v. United States*, 24 F. Supp. 3d 518 (E.D. Va. 2014) (IRS improperly disclosed traditional marriage advocacy group’s confidential tax return information).

7. OSI Beyond, *Why Nonprofits and Associations Are at a Higher Risk of Cyber-Attacks*, <https://www.osibeyond.com/blog/why-nonprofits-and-associations-are-at-a-higher-risk-of-cyber-attacks/> (last visited July 29, 2025).

8. PropertyCasualty360, *The unique risk to nonprofits of a targeted cyber attack*, <https://www.propertycasualty360.com/2018/01/12/the-unique-risk-to-nonprofits-of-a-targeted-cyber-attack/?slreturn=20210108> (last visited July 29, 2025).

public and prompted heavy pushback.⁹ The memo called for the FBI to develop sources within parishes and online Catholic communities for the purpose of “threat mitigation.” The memo expressed concerns about a potential link between “radical traditionalist” Catholics and racially motivated violent extremism. Although the FBI removed the document from its systems and asserted the issue was isolated to one product from one field office, the new report found that multiple field offices were involved in producing the memo, and that it was distributed to more than one thousand FBI employees throughout the country.

In April 2023, the Department of Justice was forced to open an investigation into the leaks of U.S. intelligence documents that were posted publicly on various multiple social media platforms.¹⁰ The documents included classified information on topics ranging from Israel’s plans to provide military aid to Ukraine, to intelligence about the United Arab Emirates’ ties to Russia, South Korean concerns about providing ammunition to the US for use in Ukraine, and the mercenary Wagner Group’s operations in Africa.

9. Catholic News Agency, *Senate Judiciary Committee: Anti-Catholic texts found in 13 more Biden-era FBI documents*, <https://www.catholicnewsagency.com/news/264545/senate-judiciary-committee-anti-catholic-texts-found-in-13-more-biden-era-fbi-documents> (last visited July 29, 2025).

10. CNN, *DOJ opens investigation into leaks of apparent classified US military documents*, <https://www.cnn.com/2023/04/07/politics/pentagon-leaked-ukraine-documents/index.html> (last visited July 29, 2025).

In November 2024, former Massachusetts Air National Guard member, Jack Teixeira, was sentenced to fifteen years in a federal prison for leaking classified documents about the war in Ukraine.¹¹ Teixeira, an IT specialist with high-level security clearance had access to all sorts of secret and classified information. Investigators say he shared hundreds of pages of classified documents with a group of friends online over the course of a year. He was arrested in 2023 and eventually pleaded guilty to violating the Espionage Act.

There are many other reported instances of intentional leaks of classified documents.

The New Jersey Attorney General can provide whatever privacy assurances he likes, but the record of recent government data breaches and purposeful leaks, and the resulting harm to millions of individuals, is well-documented and will continue to occur. This problem will only be worsened if government officials are allowed to subpoena the personal information of otherwise anonymous donors. This is especially true where, as here, a government official has made it clear that the demand for information is based on animus to a given public interest group with whom he does not agree.

The subpoena in question harms First Choice even without a court order enforcing it. As this Court made clear in *Americans for Prosperity*, even the *threat* of

11. NPR, *Former airman Jack Teixeira sentenced to 15 years for leaking classified documents*, <https://www.npr.org/2024/11/12/nx-s1-5188642/former-airman-jack-teixeira-sentenced-to-15-years-for-leaking-classified-documents> (last visited July 29, 2025).

disclosure is likely to scare away donors. 595 U.S. at 618–19. While this Court has said that disclosure requirements can chill association “[e]ven if there [is] no disclosure to the general public,” *Shelton v. Tucker*, 364 U.S. 479, 486 (1960), it is not only the direct acts of the government based upon otherwise confidential information that anonymous donors have to fear. Instead, the threat comes from the private citizens *based* on that government-held information.

The donor information sought by the Attorney General of New Jersey is not only likely to become public, but that appears to be the entire point of the demand in the first place. This is exactly the kind of exercise of state power the Framers of the 14th Amendment and § 1983 were concerned with providing a cause of action to combat. The ability to join together for expressive purposes, even and especially if it is anonymous, should not depend on the good graces of government.

II.

Due to increased political polarization and violence, donor anonymity is essential to protect free association rights

Americans are more divided over political differences, and more likely to vilify members of the perceived “other side,” than at any time in the last two decades.¹² Both self-professed conservatives and liberals have become

12. Pew Research Center, *Political Polarization in the American Public*, <https://www.pewresearch.org/politics/2014/06/12/political-polarization-in-the-american-public/> (last visited July 29, 2025).

more solidified in their ideologies, which have increasingly become tied to stable partisan categories. *Id.* As a result, ideological overlap between the two parties has cratered. *Id.* Ninety two percent of Republicans are to the right of the median Democrat, and ninety four percent of Democrats are to the left of the median Republican. *Id.* This is a recipe for conflict.

An American Psychiatric Association’s recent survey found that thirty one percent of Americans expect to have a heated political conflict with their own family members.¹³ It gets worse. Twenty percent of respondents reported cutting ties with a family member because of disagreement over political issues. *Id.* “When we’re seeing so many people having such a dramatic rupture with their loved ones, that’s a striking result,” says Petros Levounis, MD, the immediate past president of the American Psychological Association and the chair of the psychiatry department at Rutgers New Jersey Medical School in Newark. *Id.*

Even more striking, a substantial number of Americans now support the use of violence against perceived political opponents.¹⁴

13. American Psychiatric Association, *While Most Americans Align With Close Family Members on Controversial Political Issues, One in Five Report Family Estrangement Based on These Topics*, <https://www.everydayhealth.com/emotional-health/one-in-five-americans-estranged-over-political-disagreement/> (last visited July 29, 2025).

14. Network Contagion Research Institute, *Assassination Culture Brief*, <https://cbsaustin.com/news/nation-world/new-survey-reveals-disturbing-trend-in-support-of-political-violence-president-trump-left-of-center-elon-musk-liberal> (July 29, 2025).

Recently, Immigration and Customs Enforcement (ICE) law enforcement officers are facing a nearly seven hundred percent increase in assaults against them because of doxxing websites that have encouraged posting fliers in officers' neighborhoods, including their names, addresses, and pictures of them and their families.¹⁵ These fliers threaten officers with text that says, "NO PEACE FOR ICE" and "CHINGA LA MIGRA" (translation: F**K immigration services).

And of course, the presidential campaign season of 2024 saw *two* attempted assassinations on the life of President Donald Trump (R). On July 13, 2024, a gunman opened fire on Trump during a campaign rally in Butler, Pennsylvania.¹⁶ The President was hit and forced to the ground by Secret Service agents, likely saving his life. Two months later, in a second plot, another attempt on Trump's life took place at his Florida golf club when a man was arrested after he was spotted by Secret Service with a high-powered rifle at a golf course a few hundred yards away from where President Trump was playing golf.¹⁷

15. United States Department of Homeland Security, *Anarchists and Rioters in Portland Illegally Dox ICE Officers and Federal Law Enforcement*, <https://www.dhs.gov/news/2025/07/11/anarchists-and-rioters-portland-illegally-dox-ice-officers-and-federal-law> (July 29, 2025).

16. TIME, *A Year Later, Butler Shooting Marks the Defining Moment of Trump's Political Comeback*, <https://time.com/7301662/donald-trump-butler-pa-assassination/> (last visited July 29, 2025).

17. CBS News, *Trump golf course suspect Ryan Routh charged with attempted assassination*, <https://www.cbsnews.com/news/trump-attempted-assassination-suspect-ryan-routh-new-charges/> (last visited July 29, 2025).

While many people are shocked and outraged by these and other violent events, a good many other Americans supported them. Thirty-eight percent of respondents said it would be “somewhat justified” to murder President Trump, while thirty one percent said the same about Elon Musk.¹⁸

Whether couched as a tax requirement, or as an outright demand through a subpoena, requiring the disclosure of otherwise anonymous donor information reasonably would put anonymous donors in fear. The Petitioner’s, and Amicus’s, concerns over the doxing, harassment, and potential violence all but certain to occur against anonymous donors when the information demanded by the Attorney General of New Jersey becomes publicly available, is very real and the Court should consider it with the importance it deserves.

III.

American history includes a tradition of using anonymity to protect political participation.

While most Americans no doubt hope that political conflict with fellow citizens and neighbors might always be resolved through the “better angels of our nature,”¹⁹

18. City Journal, *Why Progressives Increasingly Support Violence*, <https://www.city-journal.org/article/progressives-political-violence-donald-trump-assassination-attempt> (last visited July 29, 2025).

19. Abraham Lincoln, *First Inaugural Address*, https://avalon.law.yale.edu/19th_century/lincoln1.asp (last visited July 29, 2025).

history shows that all too often that has not been the case. Time and time again anonymity has therefore proved an essential tool in fully participating in the political marketplace of ideas while also protecting oneself and one's family from harm.

The seeds that sowed the American Revolution were planted anonymously. Published on January 10, 1776, the pamphlet “Common Sense” is one of the most influential essays in American history.²⁰ Without the anonymous author's (who we now know was Thomas Paine) powerful rhetoric making the case for a political break with Great Britain, the history of the United States may have taken a very different turn. But the circumstances on the ground for Paine (and the pamphlet's publisher, Benjamin Rush) to remain anonymous, like anonymous charitable donors today, were dire.

With the surge of anti-British sentiment after the Battle of Lexington and Concord, “Patriot Committees of Safety” published broadsides including “Wanted” posters (not titled as such at the time) and the coerced recantation statements of intimidated Loyalists.²¹ The purpose of such self-appointed committees “was not justice or a regard for civil rights,” writes historian Catherine S. Crary, “but rooting out Loyalists and blocking their support of

20. Luke Wachob, *Protecting Anonymous Speech Used to be ‘Common Sense’*, <https://www.ifs.org/blog/protecting-anonymous-speech-used-to-be-common-sense/> (last visited July 29, 2025).

21. National Humanities Center, *Making the Revolution*, <https://americanclass.org/sources/makingrevolution/rebellion/text2/text2.htm> (last visited July 29, 2025).

the British cause.” Catherine S. Crary, ed., *The Price of Loyalty: Tory Writings from the Revolutionary Era* (New York: McGraw-Hill, 1973), pp. 55-56.

Circumstances amongst citizens were just as strained during the public debates over the newly proposed Constitution in the late 18th century. Thousands of authors, Federalist and Anti-Federalist, railed against their opponents in the press.²² Of course, the most famous writings during this period were the eighty-five essays written anonymously urging adoption of the new Constitution by the citizens of New York, which later became collected as *The Federalist Papers*. Of course, we now know the authors were James Madison, Alexander Hamilton, and John Jay. But like Paine, these patriots had every reason to fear public exposure.

One anonymous author during this period warned another to be careful lest “his name may yet be known . . . if he wishes to escape the just resentment of an incensed people, who perhaps may honor him with a coat of TAR and FEATHERS.” (Philadelphia Independent Gazetteer, 28 September 1787). At the same time, a Charleston mob seized John Roberts, a dissenting minister, on suspicion of being an enemy to the rights of America. According to a local paper, “he was tarred and feathered; after which, the populace, whose fury could not be appeased, erected a gibbet on which they hanged him, and afterwards made

22. Center for the Study of the American Constitution, *Pseudonyms and the Debate over the Constitution*, <https://csac.history.wisc.edu/2022/07/22/pseudonyms-and-the-debate-over-the-constitution/> (last visited July 29, 2025).

a bonfire, in which Roberts, together with the gibbet, was consumed to ashes.”²³

In the modern era, the use of anonymity to enable political association and participation has remained just as vital as during the Founding Era. Two examples from recent decades are particularly salient.

In 1996, an anonymous author published a fictionalized account of the presidential campaign of President Bill Clinton.²⁴ Containing details only someone with close connections to the campaign could have known, the book set off a firestorm of controversy over who the potential author could have been. Eventually, Joe Klein, then a Newsweek columnist, was revealed as the author. In the time leading up to The Washington Post “outing” Klein by publishing evidence linking him to the manuscript, he reports serious concerns over the safety of himself and his family. Klein relates that “[t]here were reporters lurking around the house. And we had young children at the time who walked to elementary school every day. You never know what would happen in a situation like that.”

On September 5, 2018, a senior Trump Administration official who feared for their future career prospects should their identity be made public, published an anonymous op-

23. Benjamin H. Irvin, *Tar and Feathers in Revolutionary America*, <https://revolution.h-net.msu.edu/essays/irvin.feathers.html> (last visited July 29, 2025).

24. NPR, ‘*Primary Colors*’ Author Joe Klein On Anonymity Op-Ed, <https://www.npr.org/2018/09/09/646018095/primary-colors-author-joe-klein-on-anonymous-op-ed> (last visited July 29, 2025).

ed essay in the New York Times.²⁵ In that op-ed, the author (later shown to be Miles Taylor, former chief of staff in the Department of Homeland Security), wrote: “many of the senior officials in [Trump’s] own administration are working diligently from within to frustrate parts of his agenda and his worst inclinations.” The media and political classes’ response to this piece was swift. After the op-ed was published, President Donald Trump blasted it as “gutless,” tweeting, “TREASON?” “If the GUTLESS anonymous person does indeed exist,” he wrote on Twitter that day, “the Times must, for National Security purposes, turn him/her over to government at once!”²⁶

The ability to associate for political reasons and yet remain anonymous is recognized both in this country’s tradition and in this Court’s jurisprudence. Accordingly, this Court has defended the right to politically associate without the fear of “suppression or impairment through harassment, humiliation, or exposure by government.” *Bates v. Little Rock*, 361 U.S. 516, 527-28 (1960) (Black, J, concurring). *See also McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334, 357 (1995) (holding that Ohio’s statutory prohibition against distribution of any anonymous

25. The New York Times, *I am part of the resistance inside the Trump Administration*, <https://www.nytimes.com/2018/09/05/opinion/trump-white-house-anonymous-resistance.html> (last visited July 29, 2025).

26. ABC news, ‘Anonymous,’ author of White House tell-all book, revealed to be Miles Taylor, <https://abcnews.go.com/Politics/anonymous-author-white-house-book-revealed-miles-taylor/story?id=73884296> (last visited July 29, 2025).

campaign literature violated First Amendment). The same or similar pressures that Founding-era patriots and modern political muckrakers faced apply with equal force to individuals choosing to associate with the Petitioner, and other anonymous charitable organizations, through otherwise anonymous donations.

CONCLUSION

Not only is government-held information regarding anonymous donors likely to become public, but those same donors are likely to fear violence against their persons and property as a result. For these reasons, and the reasons discussed in the Petitioner's briefing, the Court should rule in favor of the Petitioner and protect the First Amendment associational freedoms of anonymous donors.

Respectfully submitted,

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