

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, FORT MYERS DIVISION

Grenier Rivero-Tapanes v. Warden

Rivero-Tapanes · No. 2:26-cv-00286-SPC-DNF · Decided February 11, 2026

SUMMARY

The United States District Court for the Middle District of Florida dismissed without prejudice a pro se habeas petition challenging immigration detention. The court found that the petition was unsigned and did not properly identify a respondent, and allowed the petitioner 21 days to file a signed and verified amended petition or establish the propriety of next-friend status.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Fort Myers Division
JURISDICTION	United States District Court for the Middle District of Florida, Fort Myers Division
DECIDED	February 11, 2026
DOCKET	2:26-cv-00286-SPC-DNF
DISPOSITION	dismissed
PROCEDURAL POSTURE	The petitioner filed a pro se petition for a writ of habeas corpus challenging immigration detention. The district court dismissed the petition without prejudice because it was unsigned and did not identify a proper respondent, while granting 21 days to file an amended petition.
PRECEDENTIAL VALUE	unpublished district court opinion
PARTIES	Grenier Rivero-Tapanes v. Warden

TOPICS

- federal habeas corpus
- immigration detention
- pleadings
- civil procedure

PRACTICE AREAS

- immigration
- federal habeas corpus
- civil procedure

QUESTIONS PRESENTED

1. Whether an unsigned habeas petition satisfies 28 U.S.C. § 2242 when the person filing or preparing it has not established next-friend status.
2. Whether the petition was deficient under 28 U.S.C. § 2242 because it did not identify the person having custody over the petitioner and the authority for that custody.
3. Whether the deficient petition should be dismissed without prejudice with an opportunity to amend.

HOLDINGS

1. A habeas petition must be signed and verified by the person seeking relief or by a properly established next friend; merely labeling the preparer an "Authorized Representative" does not establish next-friend status.
2. A habeas petition must identify the person who has custody over the petitioner and the claim or authority supporting that custody, if known; the petition's failure to identify a respondent was an independent defect warranting dismissal.
3. The petition was dismissed without prejudice because it was unsigned and failed to identify a proper respondent, and the petitioner was permitted to file a compliant amended petition within 21 days.

KEY QUOTATIONS

"The burden is on the 'next friend' clearly to establish the propriety of his status and thereby justify the jurisdiction of the court."

"For these reasons, Rivero-Tapanes's petition is DISMISSED without prejudice."

FACTUAL BACKGROUND

The petitioner alleged that he was unlawfully detained by immigration authorities because his removal was not reasonably foreseeable. The petition was unsigned; instead, the preparer typed "Authorized Representative." The petition also failed to identify a respondent or explain the authority by which the named respondent had custody over the petitioner.

PROCEDURAL HISTORY

Grenier Rivero-Tapanes filed a petition alleging that immigration authorities were unlawfully detaining him because there was no significant likelihood of removal in the reasonably foreseeable future. The court dismissed the petition without prejudice and permitted a signed and verified amended petition to be filed within 21 days.

DISPOSITION

dismissed

CASES CITED

- Whitmore v. Arkansas, 495 U.S. 149, 162-64 (1990)
- Rumsfeld v. Padilla, 542 U.S. 426, 435 n.8 (2004)

- *Masingene v. Martin*, 424 F. Supp. 3d 1298, 1302 (S.D. Fla. 2020)

OPINION

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA FORT MYERS DIVISION GRENIER RIVERO-TAPANES, Petitioner, v. Case No.: 2:26-cv-00286-SPC-DNF WARDEN, Respondent, / OPINION AND ORDER Before the Court is Grenier Rivero-Tapanes's pro se Petition for Writ of Habeas Corpus (Doc. 1). Rivero-Tapanes claims he is unlawfully detained by immigration authorities because there is no significant likelihood of his removal in the reasonably foreseeable future.

But the petition is unsigned. "Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf." 28 U.S.C. § 2242. In place of a signature, the person who prepared the petition typed, "Authorized Representative." The latter part of § 2242 codifies the common law tradition of permitting a "next friend" to litigate on behalf of a detained person who is unable to seek relief himself, "usually because of mental incompetence or inaccessibility." *Whitmore v. Arkansas*, 495 U.S. 149, 162 (1990).

But "'next friend' standing is by no means granted automatically to whomever seeks to pursue an action on behalf of another." *Id.* 163. The "next friend" must adequately explain why the detainee cannot appear on his own behalf to prosecute the action, and he must be truly dedicated to the best interests of the detainee. *Id.* "The burden is on the 'next friend' clearly to establish the propriety of his status and thereby justify the jurisdiction of the court." *Id.* at 164.

Also, the petition does not identify a respondent. A habeas petitioner must state "the name of the person who has custody over him and by virtue of what claim or authority, if known." 28 U.S.C. § 2242. The immediate custodian—i.e., the warden of the detention facility—is normally the only proper respondent in a habeas action, but immigration detention is more complicated.

See *Rumsfeld v. Padilla*, 542 U.S. 426, 435 n.8 (2004) (declining to decide whether the Attorney General is a proper respondent to a habeas action filed by an alien pending deportation); see also *Masingene v. Martin*, 424 F. Supp. 3d 1298, 1302 (S.D. Fla. 2020) (finding the director of ICE's local field office is a more appropriate respondent than the warden of a state-run detention facility).

For these reasons, Rivero-Tapanes's petition is DISMISSED without prejudice. Rivero-Tapanes may file a signed and verified amended petition within 21 days of this order. Otherwise, the Court will enter judgment and close this case without further notice. If someone seeks to file on Rivero-Tapanes's behalf, they must establish the propriety of "next friend" status.

DONE AND ORDERED in Fort Myers, Florida on February 11, 2026., tite WObLatrat he 7
UNITED STATES DISTRICT JUDGE SA: FTMP-1

