

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
VIRGINIA, RICHMOND DIVISION

Dervin Manuel Gonzalez Suarez v. U.S. Immigration and Customs
Enforcement (ICE)

Gonzalez Suarez · No. 3:26cv98 · Decided February 12, 2026

SUMMARY

The U.S. District Court for the Eastern District of Virginia denied without prejudice an emergency humanitarian bond motion challenging an immigration detainee’s detention and dismissed the action. The court held that the petitioner’s long-term partner did not establish next-friend standing and could not file or litigate the matter on the petitioner’s behalf. The court directed the Clerk to mail the petitioner a standardized form for filing a new, personally signed petition under 28 U.S.C. § 2241.

CASE DETAILS

COURT	United States District Court for the Eastern District of Virginia, Richmond Division
WRITING FOR THE COURT	M. Hannah Lauck
JURISDICTION	U.S. District Court for the Eastern District of Virginia, Richmond Division
DECIDED	February 12, 2026
DOCKET	3:26cv98
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petitioner's long-term partner filed an emergency humanitarian bond motion challenging Petitioner's immigration detention as Petitioner's purported next friend. The court treated the filing as an opportunity to pursue a 28 U.S.C. § 2241 habeas petition but denied the motion without prejudice and dismissed the action because the purported next friend failed to establish next-friend standing and Petitioner did not personally sign the filings.
PRECEDENTIAL VALUE	unpublished
PARTIES	Dervin Manuel Gonzalez Suarez v. U.S. Immigration and Customs Enforcement (ICE)

TOPICS

immigration detention

federal habeas corpus

standing

civil procedure

PRACTICE AREAS

immigration

federal habeas corpus

civil procedure

QUESTIONS PRESENTED

1. Whether the court could recognize filings submitted by Petitioner's purported next friend when the filing did not explain why Petitioner could not appear personally.
2. Whether the motion complied with the signature and authorization requirements applicable to a habeas petition under 28 U.S.C. § 2241.
3. Whether the action should be dismissed without prejudice because the purported next friend failed to establish next-friend standing.

HOLDINGS

1. A purported next friend must clearly establish the propriety of next-friend status by explaining why the detained person cannot appear on his own behalf and by showing dedication to the person's best interests and a significant relationship with that person. Detention alone does not establish the required inability to appear.
2. A habeas submission must be signed under penalty of perjury by the petitioner or by a person authorized to sign for the petitioner, and a purported next friend may not file on the petitioner's behalf without establishing the requisite authorization or standing.
3. The motion must be denied without prejudice and the action dismissed when the only filing is submitted by a purported next friend who has not established next-friend standing and the petitioner has not personally signed the submission.

KEY QUOTATIONS

"[A] next friend does not himself become a party to the habeas corpus action in which he participates, but simply pursues the cause on behalf of the detained person, who remains the real party in interest." (at 2)

"[T]he availability of next friend standing as an avenue into federal court is strictly limited." (at 2)

"The simple fact that Petitioner is detained is not sufficient to show that Petitioner cannot appear on his own behalf to prosecute the action." (at 3)

FACTUAL BACKGROUND

Petitioner was detained at the Farmville Detention Center in connection with immigration proceedings. His long-term partner, Erika Villanueva Cano, who lived in Maryland, filed an emergency humanitarian bond motion for him as a purported next friend. Petitioner did not sign the submissions, and Cano provided no explanation why Petitioner could not appear and prosecute the action personally or evidence that he had reviewed or approved the filing.

PROCEDURAL HISTORY

The court received an Emergency Humanitarian Bond Motion filed by Erika Villanueva Cano on Petitioner's behalf. Cano did not establish why Petitioner could not appear personally, and the record did not show that Petitioner had seen or approved the filing. The court declined to recognize Cano's filings, denied the motion without prejudice, dismissed the action, and directed the Clerk to mail Petitioner a § 2241 petition form for any future petition filed by Petitioner himself.

DISPOSITION

dismissed

CASES CITED

- Preiser v. Rodriguez, 411 U.S. 475 (1973)
- Olajide v. B.I.C.E., 402 F. Supp. 2d 688, 695 (E.D. Va. 2005)
- Strader v. Troy, 571 F.2d 1263, 1269 (4th Cir. 1978)
- Rivenbark v. Virginia, 305 F. App'x 144, 145 (4th Cir. 2008)
- Hamdi v. Rumsfeld, 294 F.3d 598, 603-04 (4th Cir. 2002)
- Whitmore v. Arkansas, 495 U.S. 149, 163-64 (1990)
- Aguayo v. Harvey, 476 F.3d 971, 976 (D.C. Cir. 2007)
- Francis v. Warden, FCC Coleman-USP, 246 F. App'x 621, 623 (11th Cir. 2007)
- DePonceau v. Pataki, 315 F. Supp. 2d 338, 341-42 (W.D.N.Y. 2004)
- Kone v. Wilson, 630 S.E.2d 744, 745-46 (Va. 2006)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division DERVIN MANUEL GONZALEZ SUAREZ, Petitioner, v. Civil Action No. 3:26cv98 U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE), Respondent.
MEMORANDUM OPINION The Court has received a “Emergency Humanitarian Bond Motion” filed on behalf of Petitioner, challenging his immigration detention (the “Motion”).

(ECF No. 1.) An individual named Erika Villanueva Cano, who is Petitioner’s long-term partner and lives in Maryland, filed the Motion for Petitioner, purportedly as a “next friend.” Petitioner did not sign any of the submissions. “[T]he settled rules [provide] that habeas corpus relief is appropriate only when a prisoner attacks the fact or duration of confinement, see Preiser v. Rodriguez, 411 U.S. 475 (1973); whereas, challenges to the conditions of confinement that would not result in a definite reduction in the length of confinement are properly brought” by some other procedural vehicle, including a Bivens complaint.

Olajide v. B.I.C.E., 402 F. Supp. 2d 688, 695 (E.D. Va. 2005) (emphasis omitted) (internal parallel citations omitted) (citing Strader v. Troy, 571 F.2d 1263, 1269 (4th Cir. 1978)). Given the content

of this document, it is appropriate to give Petitioner the opportunity to pursue this action as a petition for a writ of habeas corpus under 28 U.S.C. § 2241. See *Rivenbark v. Virginia*, 305 F. App'x 144, 145 (4th Cir.

2008)). Rule 2(c)(5) of the Rules Governing §2254 Cases requires that petitions pursuant to 28 U.S.C. § 2254 “be signed under penalty of perjury by the petitioner or by a person authorized to sign it for the petitioner under 28 U.S.C. § 2242.” Rules Governing § 2254 Cases in U.S. District Courts, Rule 2(c)(5).'

The Advisory Committee Notes to Rule 2(c) explain: “The Committee envisions that the courts will apply third-party, or ‘next-friend,’ standing analysis in deciding whether the signer was actually authorized to sign the petition on behalf of the petitioner.” Jd., Advisory Committee Notes, 2004 Amend. “[A] next friend does not himself become a party to the habeas corpus action in which he participates, but simply pursues the cause on behalf of the detained person, who remains the real party in interest.” *Hamdi v. Rumsfeld*, 294 F.3d 598, 603 (4th Cir.

2002) (some internal quotation marks omitted) (quoting *Whitmore v. Arkansas*, 495 U.S. 149, 163 (1990)). “[T]he availability of next friend standing as an avenue into federal court is strictly limited.” Id. To establish “next friend” standing, (1) the “next friend must provide an adequate explanation-such as inaccessibility, mental incompetence, or other disability-why the real party in interest cannot appear on his own behalf to prosecute the action,” and (2) the “next friend” must also establish that he is “truly dedicated to the best interests of the person on whose behalf he seeks to litigate” and has “a significant relationship with the real party in interest.” Jd. at 603—04 (some internal quotation marks omitted) (quoting *Whitmore*, 495 U.S. at 163-64). “The burden is on the next friend clearly to establish the propriety of his status and thereby justify the jurisdiction of the court.” Jd. at 603 (some internal quotation marks omitted) (quoting *Whitmore*, 495 U.S. at 164). ‘Rule 1(b) of the Rules Governing § 2254 Cases permits this Court to apply the Rules Governing § 2254 Cases to petitions under 28 U.S.C. § 2241.

Rule 1(b), Rules Governing § 2254 Cases; see *Aguayo v. Harvey*, 476 F.3d 971, 976 (D.C. Cir. 2007). Ms. Cano does not show that she qualifies as “next friend” and, therefore, the Motion fails to comply with Rule 2(c)(5). Ms. Cano fails to provide any explanation as to why Petitioner cannot appear and prosecute the action.

The simple fact that Petitioner is detained is not sufficient to show that Petitioner cannot appear on his own behalf to prosecute the action. *Hamdi*, 294 F.3d at 603-04 (requiring showing of “inaccessibility, mental incompetence, or other disability-why the real party in interest cannot appear on his own behalf to prosecute the action”); cf *Francis v. Warden, FCC Coleman-USP*, 246 F. App'x 621, 623 (11th Cir.

2007) (finding “blanket assertion” that petitioner was her husband and was incarcerated insufficient to show that petitioner could not initiate the petition from prison and that she was next friend).” Moreover, Ms. Cano clearly filed the Motion on Petitioner’s behalf and there is no evidence that Petitioner even has seen or approved of the contents. That is not permissible.?

Accordingly, the Court will not recognize any filings made by Ms. Cano. Petitioner must sign his submissions to this Court under penalty of perjury. Accordingly, the Motion, (ECF No. 1), will be DENIED WITHOUT PREJUDICE, and the action will be DISMISSED. Nevertheless, in order to expedite any further § 2241 petition filed by Petitioner himself, the Clerk is DIRECTED to mail a copy of this Memorandum Order and a standardized form for?

Indeed, the Court has received pro se § 2241 petitions filed by detainees in the Farmville Detention Center. 3 Additionally, it does not appear that Ms. Cano is an attorney, and therefore, she may not litigate this matter for Petitioner. Parties may plead and conduct their own cases personally or by counsel in all courts of the United States. See 28 U.S.C. § 1654.

Individuals who are not licensed attorneys may not represent third parties because such representation constitutes the unauthorized practice of law. Rules of Supreme Court of Virginia, Pt. 6, § I; see *DePonceau v. Pataki*, 315 F. Supp. 2d 338, 341-42 (W.D.N.Y. 2004); *Kone v. Wilson*, 630 S.E.2d 744, 745—46 (Va. 2006). filing a § 2241 petition to Petitioner at the Farmville Detention Center.’ If Petitioner wishes to pursue a § 2241 petition, he should complete and return the form to the Court.

Petitioner must sign the form himself. Any § 2241 petition will be opened as a new civil action. An appropriate Order shall issue. / Date: 7 ^ 4/LO M. Hannah C Richmond, Virginia Chief United States District Judge 4 The Court should mail this Memorandum Order and a standardized § 2241 petition form to Petitioner at the Farmville Detention Center with the “A” number, “246-874-501.” (See ECF No. 1-1, at 1.)