

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 court dismissed without prejudice a pro se habeas petition challenging immigration detention because it was unsigned and did not properly identify a respondent. The court granted 21 days to file a signed and verified amended petition and required any purported next friend to establish the propriety of that 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	Petition for a writ of habeas corpus under 28 U.S.C. § 2241 challenging immigration detention.
PRECEDENTIAL VALUE	Unpublished district court opinion
PARTIES	Grenier Rivero-Tapanes v. Warden

TOPICS

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

PRACTICE AREAS

- immigration
- federal habeas corpus
- civil procedure

QUESTIONS PRESENTED

- Whether an unsigned habeas petition may proceed when the person filing on behalf of the detainee has not established next-friend status.

2. Whether a habeas petition may proceed when it does not identify the person having custody over the petitioner.

HOLDINGS

1. A habeas petition must be signed and verified by the person seeking relief or by a properly established next friend; a person may not litigate on the detainee's behalf merely by labeling himself an authorized representative.
2. A habeas petition must identify the person who has custody over the petitioner and the authority for that custody, when known; the petition's failure to identify a respondent independently supported dismissal without prejudice.

KEY QUOTATIONS

“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.”

“The burden is on the ‘next friend’ clearly to establish the propriety of his status and thereby justify the jurisdiction of the court.”

FACTUAL BACKGROUND

Rivero-Tapanes challenged his detention by immigration authorities through a habeas petition. The petition was not signed by Rivero-Tapanes or by a person whose authority to act on his behalf was established; instead, the preparer typed “Authorized Representative.” The petition also failed to identify the person with custody over him as the respondent.

PROCEDURAL HISTORY

Petitioner filed a pro se petition alleging that his immigration detention was unlawful because there was no significant likelihood of removal in the reasonably foreseeable future. The court found that the petition was unsigned and did not identify a respondent, dismissed it without prejudice, and allowed petitioner 21 days to file a signed and verified amended petition.

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., title WOBLatrat he 7
UNITED STATES DISTRICT JUDGE SA: FTMP-1

