

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
INDIANA, SOUTH BEND DIVISION

Song Mai v. Joseph Edlow, et al.

Cause No. 3:26-CV-178-CCB-SJF (N.D. Ind. Feb. 10, 2026) · No. 3:26-CV-178-CCB-SJF · Decided February 10, 2026

SUMMARY

The United States District Court for the Northern District of Indiana dismissed a habeas corpus petition filed by Desiree Thien on behalf of Song Mai under 28 U.S.C. § 2241. The court held that Thien could not proceed as Mai’s next friend because Mai had demonstrated that he could assert his rights independently, and it dismissed the action as duplicative of Mai’s separate habeas proceeding.

CASE DETAILS

COURT	United States District Court for the Northern District of Indiana, South Bend Division
WRITING FOR THE COURT	Cristal C. Brisco
JURISDICTION	United States District Court for the Northern District of Indiana, South Bend Division
DECIDED	February 10, 2026
DOCKET	3:26-CV-178-CCB-SJF
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2241 filed by a non-attorney on behalf of an allegedly detained individual; the district court reviewed the petition under Rule 4 of the Rules Governing Section 2254 Cases.
STANDARD OF REVIEW	Under Rule 4 of the Rules Governing Section 2254 Cases, the court must dismiss a habeas petition if it plainly appears from the petition and attached exhibits that the petitioner is not entitled to relief in the district court.
PRECEDENTIAL VALUE	unpublished district court opinion
PARTIES	Song Mai v. Joseph Edlow, et al.

TOPICS

federal habeas corpus

standing

immigration detention

civil procedure

PRACTICE AREAS

federal habeas corpus

immigration detention

civil procedure

QUESTIONS PRESENTED

1. Whether a non-attorney may file a habeas petition on behalf of another person as a next friend when the real party in interest is able to assert his rights independently.
2. Whether the court should dismiss a habeas petition that is duplicative of a parallel habeas proceeding already filed by the real party in interest.

HOLDINGS

1. A non-attorney may not proceed as a next friend when the real party in interest is able to assert his rights on his own; because Mai had filed a separate habeas petition himself, Thien did not properly file this petition on his behalf.
2. The court may dismiss a complaint or petition that duplicates a parallel action already pending in federal court, and this petition was properly dismissed because Mai had already initiated a duplicative habeas proceeding.

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.”

“These limitations on the next friend doctrine are driven by the recognition that it was not intended that the writ of habeas corpus should be availed of, as matter of course, by intruders or uninvited meddlers, styling themselves next friends.”

FACTUAL BACKGROUND

Desiree Thien filed and signed a habeas petition purporting to represent Song Mai, who was allegedly in ICE custody at the Miami Correctional Facility. Thien was not an attorney admitted to practice in the district and asserted that Mai could not file from the facility. The court noted that Mai had already filed his own habeas petition in *Mai v. English*, demonstrating that he could assert his rights independently.

PROCEDURAL HISTORY

Desiree Thien signed and filed a § 2241 habeas petition on behalf of Song Mai, claiming that Mai was unlawfully detained by Immigration and Customs Enforcement. The court determined that Thien could not proceed as Mai's next friend because Mai had demonstrated his ability to litigate by filing a separate habeas petition on his own behalf. Because Mai's separate proceeding made this action duplicative, the court dismissed the petition and directed the clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Wilson v. Lane, 870 F.2d 1250, 1255 (7th Cir. 1989)
- Whitmore v. Arkansas, 495 U.S. 149, 164 (1990)
- McReynolds v. Merrill Lynch & Co., 694 F.3d 873, 888 (7th Cir. 2012)
- Mai v. English, No. 3:26-CV-171 (N.D. Ind. filed Feb. 9, 2026)

OPINION

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF INDIANA SOUTH BEND DIVISION SONG MAI, Petitioner, v. CAUSE NO. 3:26-CV-178-CCB-SJF JOSEPH EDLOW, et al., Respondents. OPINION AND ORDER Desiree Thien filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241 on behalf of Song Mai. According to the petition, Mai is in the custody of Immigration and Customs Enforcement (ICE) at the Miami Correctional Facility in violation of the laws and Constitution of the United States.

Pursuant to Section 2254 Habeas Corpus Rule 4, the court must dismiss the petition “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court.” The court considers whether Thien properly filed the habeas petition on Mai’s behalf.

To start, Thien did not merely submit the petition for filing; she also signed it and attests that she is representing him. Further, Thien does not purport to be a licensed attorney admitted to practice in this court. With respect to non-attorneys, the general prudential rule on standing is that parties cannot seek vindication of the constitutional rights of other individuals.

Wilson v. Lane, 870 F.2d 1250, 1255 (7th Cir. 1989). An exception might be allowed if the other individual is unable to assert his rights on his own and if there is a significant and close relationship between the party and the other individual. Id. “[A] 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.” Whitmore v. Arkansas, 495 U.S. 149, 164 (1990). “The burden is on the next friend clearly to establish the propriety of his status and thereby justify the jurisdiction of the court.” Id. “These limitations on the next friend doctrine are driven by the recognition that it was not intended that the writ of habeas corpus should be availed of, as matter of course, by intruders or uninvited meddlers, styling themselves next friends.” Id. Here, Thien suggests that her next friend status is proper because Mai cannot submit filings on his own from the Miami Correctional Facility.

However, Mai has filed a habeas petition on his own in Mai v. English, 3:26-CV-171 (N.D. Ind. filed Feb. 9, 2026), which demonstrates that he is able to assert his rights on his own. Because Mai

is able to assert his rights on his own, the court concludes that Thien did not properly file the petition in this case on Mai's behalf. Following a determination that next friend status is improper, the court's general practice is to allow the real party in interest to determine how to proceed with a case.

However, here, the real party in interest, Mai, has already initiated a habeas proceeding on his own, and he cannot proceed in duplicative cases. See *McReynolds v. Merrill Lynch & Co.*, 694 F.3d 873, 888 (7th Cir. 2012) ("The district court has broad discretion to dismiss a complaint for reasons of wise judicial administration whenever it is duplicative of a parallel action already pending in another federal court.").

Consequently, the court will immediately dismiss this case. For these reasons, the court: (1) DISMISSES the petition (ECF 1) pursuant to Rule 4 of the Rules Governing Section 2254 Cases; (2) DIRECTS the clerk to send a copy of this order to Desiree Thien; and (3) DIRECTS the clerk to close this case. SO ORDERED on February 10, 2026. /s/Cristal C. Brisco CRISTAL C. BRISCO, JUDGE UNITED STATES DISTRICT COURT