

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

FIDEL ALEJANDRO GAMBOA DIAZ

Petitioner,

v.

Case No.: 2:26-cv-702-JAS-DNF

WARDEN,
FLORIDA SOFT SIDE SOUTH
DETENTION FACILITY,
ICE FIELD OFFICE DIRECTOR,
MIAMI FIELD OFFICE

Respondents.

RESPONSE IN OPPOSITION TO PETITION FOR HABEAS

The Court should deny the Petition without prejudice for being devoid of any sufficient facts or details to grant habeas relief.

Sandra Diaz Rodrigues, on behalf of her son, the petitioner (Gamboa Diaz), seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241, seeking the justification of Gamboa Diaz's detention, or his immediate release from immigration custody under supervision. Dkt. 1. Gamboa Diaz's petition should be denied. Because Gamboa Diaz is pro se and has not demonstrated the propriety of "next friend" status, Ms. Rodriguez cannot bring this action on behalf of Gamboa Diaz.

1. A friend of the Gamboa Diaz (his mother Sandra Rodriguez), acting as legal counsel and "next friend", filed this Petition seeking habeas relief under 28 USC 2241 and a violation of Gamboa Diaz's Fifth Amendment rights. Dkt. 1.

2. In that Petition, the only facts or details are on pages 3 - 4. *Id.* Gamboa Diaz claims he is a Cuban citizen, detained by USCIS on March 8, 2026, does not have a final order of removal, is awaiting immigration proceedings and lists numerous medical conditions. *Id.*

MEMORANDUM OF LAW

a. Ms. Rodriguez cannot bring a case on behalf of Petitioner.

An “[a]pplication 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. The last part of this provision codifies the common law tradition of permitting a “next friend” to litigate on behalf of a person who, because of incompetence, is unable to initiate a habeas action himself. *See Whitmore v. Arkansas*, 495 U.S. 149, 162 (1990). However, “[n]ext friend’ standing is by no means granted automatically[.]” *Id.* at 163. To demonstrate that “next friend” status is warranted, the would-be next friend must (1) provide an adequate explanation for the necessity of the designation, such as the real party’s mental incompetence or lack of access to the courts and (2) show she is “truly dedicated to the interests” of the real party. *Id.*; *Dominguez v. Warden*, No. 2:26-CV-00281-SPC-DNF, 2026 WL 383014, at *1 (M.D. Fla. Feb. 11, 2026) (citing *Whitmore v. Arkansas*, 495 U.S. 149, 162 (1990)).

Rodriguez has not met this standard. Rodriguez has not alleged that Gamboa Diaz is mentally incompetent or has been denied access to the courts. *Id.*; Dkt 1, Exhibit E. Although Rodriguez lists a litany of medical issues that Gamboa Diaz allegedly has, she fails to state why she is filing the Habeas petition on behalf of

petitioner. *Id.* Ultimately, Rodriguez offers nothing to show that Gamboa Diaz warrants any special protection by a next friend to litigate on his behalf.

Because Rodriguez does not demonstrate the propriety of “next friend” status, she lacks standing to initiate this action on Gamboa Diaz’s behalf. *See Francis v. Warden, FCC Coleman-USP*, 246 F. App’x 621, 622 (11th Cir. 2007); *Weber v. Garza*, 570 F.2d 511, 514 (5th Cir. 1978).

Even if there was s next-friend status, Rodriguez does not claim to be a lawyer. So, she cannot represent petitioner in this action. *See Weber v. Garza*, 570 F.2d 511, 514 (5th Cir. 1978); *Marcia Turner v. Neptune Towing & Recovery, Inc.*, No. 8:09-CV-I071-T-27AEP, 2011 WL 2981786, at *2 (M.D. Fla. July 22, 2011); *Bey on behalf of Baxter v. Fla.*, No. 4:24CV517/MW/ZCB, 2025 WL 351425, at *1 n.2 (N.D. Fla. Jan. 6, 2025).

b. Petition lacks any facts or details about his detention.

The undersigned is cognizant of the difficulties associated with proceeding pro se and, as the Eleventh Circuit requires, the Court should afford liberal construction to Gamboa Diaz’s pleadings. *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998) (per curiam); *De Borba Oliveira v. United States Att’y Gen.*, No. 23-14019, 2025 WL 40541, at *3 (11th Cir. Jan. 7, 2025). However, the Petitioner must provide more facts or details to grant habeas relief.

Courts in this district and around the country have found the recent changes to ICE policies on bond hearings and detention unlawful as applied in certain situations. *See Landaverde Ardon v. Mina*, No. 6:26-CV-313-JSS-LHP, 2026 WL 530199 (M.D. Fla.

Feb. 26, 2026); *Gonzo-Valdes v Warden of Alligator Alley*; No. 2:26-cv-303-SPC-NPM, 2026 WL 380265 (M.D. Fla. Feb. 11, 2026).

But in this case, Petitioner fails to provide any details for the Court to determine whether the Respondents have violated his rights. The Petition is devoid of when or where the Petitioner entered the United States; how the Petitioner entered the United States; his current immigration status; is he in removal proceedings or has he been previously ordered to be removed; does he have any pending applications before DHS (his mother is a United States Citizens, Dkt. 1, Exhibit E), and the circumstances of his arrest. Conclusory allegations are not enough to guarantee habeas relief. *Gonzo-Valdes*; 2026 WL 380265; *see Chavez v. Sec'y, Fla. Dep't of Corr.*, 647 F.3d 1057, 1061 (11th Cir. 2011).

WHEREFORE, Respondent respectfully request that the court find that Petitioner is not entitled to habeas relief; dismiss the Petition without prejudice and allow the Petitioner 21 days to file an amended Petition.

CERTIFICATION

The undersigned is unable to certify the true cause of petitioner's detention.

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

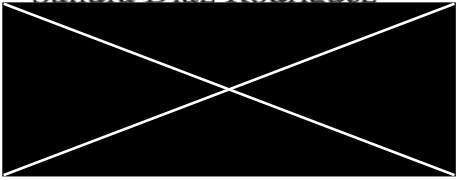
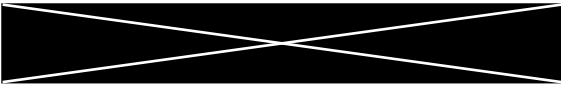
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 27, 2026, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notice of the filing to all CM/ECF participants, and a hard copy will be sent by email and US mail to:

Fidel Alejandro Gambo Diaz
A# 
Florida Soft Side South
Inmate Mail/Parcels
54575 Tamiami Trail E NA
Ochopee, FL 34141

Sandra Diaz Rodriguez



s/ John F. Rudy, III
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