

1 In his objections, plaintiff contends that “a habeas petitioner may demonstrate standing as
2 a ‘next friend’ of the real party in interest.” (*Id.* at 1 (citing *Whitmore v. Arkansas*, 495 U.S. 149,
3 160–62 (1990)).)¹ However, a petitioner seeking standing as a “next friend” must, among other
4 things, demonstrate that the real party in interest cannot appear on its own behalf to prosecute the
5 action. *See Whitmore*, 495 U.S. at 163–64. Here, plaintiff failed to respond to the magistrate
6 judge’s finding that he failed to “show any hindrance to his wife’s ability to prosecute her own
7 lawsuit.” (Doc. No. 10 at 3.) Simply being married does not automatically entitle a spouse to
8 “next friend” standing. *See, e.g., DiPietro v. Senula*, No. 1:12-cv-0189-NLH, 2012 WL 136812,
9 at *2 (D.N.J. Jan. 18, 2012) (holding that a wife does not have standing in her own right to file a
10 habeas petition for her husband) (citing *Amato v. Wilentz*, 952 F.2d 742, 751 (3d Cir. 1991) and
11 *Whitmore*, 495 U.S. at 163–64).

12 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
13 *de novo* review of this case. Having carefully reviewed the entire file, including plaintiff’s
14 objections, the court concludes that the findings and recommendations are supported by the
15 record and proper analysis.

16 Accordingly,

- 17 1. The findings and recommendations filed on March 6, 2020 (Doc. No. 10) are
18 adopted in full;
- 19 2. This action is dismissed without prejudice due to plaintiff’s lack of standing to
20 prosecute this action on behalf of his spouse; and
- 21 3. The Clerk of the Court is directed to close this case.

22 IT IS SO ORDERED.

23 Dated: April 28, 2020

24 
UNITED STATES DISTRICT JUDGE

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28 ¹ As noted, plaintiff has filed this civil rights action under 42 U.S.C. § 1983 and does not seek federal habeas relief.