

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 26-23465-CIV-MIDDLEBROOKS

YULIESKY COLINA MENA,

Petitioner,

v.

WARDEN, FLORIDA SOFT SIDE SOUTH,
et al.,

Respondents,

MOTION TO DISMISS OR TRANSFER ACTION

Respondents respectfully move to dismiss or transfer Petitioner, Yuliesky Colina Mena's Petition for a Writ of Habeas Corpus to the Middle District of Florida. In support of this Motion, Respondents state the following:

INTRODUCTION

Petitioner is challenging as unlawful his detention in the custody of Immigration and Customs Enforcement at the Florida Soft Sided Facility South located in Ochopee, Florida. *See* Petition at 1. Ochopee, Florida is in Collier County, which is within the jurisdiction of the Middle District of Florida. *See* 28 U.S.C. § 89(b) (explaining the counties, which includes Collier County, that comprise the Middle District of Florida).

ARGUMENT

The habeas statute, 28 U.S.C. § 2241, allows "the [U.S.] Supreme Court, any justice thereof, the district courts and any circuit judge" to grant writs of habeas corpus "within their respective jurisdictions." 28 U.S.C. § 2441(a). The Supreme Court has interpreted the "within their respective jurisdiction language to mean that a Section 2441 petitioner challenging his

present physical custody must file a petition for writ of habeas corpus in the district of confinement.” *Rumsfeld v. Padilla*, 542 U.S. 426, 446-47 (2004). “In challenges to present physical confinement...the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent.” *Padilla*, 542 U.S. at 435-40, 439.

The proper respondent to a federal habeas petition is apparent from the statutory text: it is “the person who has custody over” the petitioner. 28 U.S.C. 2242; *see also* 28 U.S.C. § 2243 (“The writ, or order to show cause shall be directed to the person having custody of the person detained.”). Federal courts must employ the “immediate custodian” rule to identify “the person who has custody over” the petitioner when the requested habeas relief challenges the petitioner’s “present physical confinement” – what the United Supreme Court terms a “core” habeas challenge. *Padilla*, 542 U.S. at 435, 124 S.Ct. 2711. The rule “contemplate[s] a proceeding against some person who has the immediate custody of the party detained, with the power to produce the body of such party before the court or judge, that he may be liberated if no sufficient reason is shown to the contrary.” *Id.* (quoting *Wales v. Whitney*, 114 U.S. 564, 574, 5 S.Ct. 1050, 29 L.Ed. 277 (1885)) (emphasis supplied in *Padilla*). This provides an added layer to the “immediate custodian” rule in that the immediate custodian must be the petitioner’s immediate *physical* custodian, as opposed to someone who exercises constructive legal custody over the petitioner. *Id.* at 438-40, 124 S.Ct. 2711 (focusing the inquiry on the petitioner’s “immediate physical custodian”).

“[T]he default rule” in habeas challenges to present physical confinement “is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official.” *Id.* at 435, 124 S.Ct. 2711 (emphasis added); *see also id.* at 439, 124 S.Ct. 2711 (“In challenges to present physical confinement, we reaffirm

that the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent.”).

Petitioner’s petition in this case raises a “core” habeas challenge because he seeks outright release, or at a minimum, a bond hearing to obtain his release from ICE detention. So, the “immediate custodian” rule governs. “[F]or core habeas petitions challenging present physical confinement,” the rule is that “jurisdiction lies in only one district: the district of confinement.” *Padilla*, 542 U.S. at 443, 124 S.Ct. 2711; *see also Trump v. J.G.G.*, 604 U.S. 670, 672, (2025) (per curiam) (stating that the district of confinement rule applies to “core” immigration habeas proceedings). This jurisdictional standard is a narrow one; it expressly precludes federal courts from exercising jurisdiction “in any district” where “the respondent is amenable to service of process.” *Padilla*, 542 U.S. at 443, 124 S.Ct. 2711. And the rule makes sense because “[i]n habeas challenges to present physical confinement . . . the district of confinement is synonymous with the district court that has territorial jurisdiction over the proper respondent.” *Id.* at 444, 124 S.Ct. 2711. So, “[b]y definition, the immediate custodian and the prisoner [will] reside in the same district.” *Id.*

Petitioner here challenges his detention at the Florida Soft Sided Facility South in Ochopee, Florida. *See* Petition at 1. Ochopee, Florida is in Collier County, which is in the Middle District of Florida. *See* 28 U.S.C. § 89(b).

As a result, a court in the Southern District of Florida lacks the requisite territorial jurisdiction to entertain the habeas petition.

As the Supreme Court stated in *Padilla*, “[w]henver a § 2241 habeas petitioner seeks to challenge his present physical custody within the United States, *i.e.*, a “core” habeas challenge, “he should name his warden as respondent and file the petition in the district of confinement.”

Padilla, 542 U.S. at 447, 124 S.Ct. 2711. Courts in this District have accordingly found that they lack jurisdiction filed by petitioners who are detained outside the Southern District of Florida. *See, e.g., Diaz Escandon v. Florida Soft Side South*, 26-21411-CIV-BECERRA, ECF No. 4 (S.D. Fla. Mar. 6, 2026) (transferring habeas action brought by petitioner detained at Florida Soft Side South to Middle District of Florida because “for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement”); *Mateus Gonzalez v. Warden, Florida Soft Side South*, et al., Case No. 26-21609-CIV-CANNON, ECF No. 4 (S.D. Fla. Mar. 12, 2026) (transferring habeas petition filed by Alligator Alcatraz detainee to Middle District of Florida because “jurisdiction for § 2241 petitions lies only in the district of confinement.”); *Velasquez Santana v. Warden, Florida Soft Side South*, Case No. 26-21132-CIV-LEIBOWITZ, ECF No. 4 (S.D. Fla. Feb. 23, 2026) (transferring habeas action brought by detainee at Florida Soft Side to Middle District because “[i]t is well-settled that habeas ‘jurisdiction lies in only one district: the district of confinement.’”) (citation omitted); *Benitez Garrido v. Krome North Service Processing Center, Warden*, Case No. 26-21466-CIV-GAYLES, ECF No. 5 (S.D. Fla. Mar. 13 2026 (finding no jurisdiction over habeas petition and transferring case to Southern District of Texas because petitioner was detained there); *Ferreira De Jesus v. Warden*, Case No. 26-21030-CIV-DIMITROULEAS, ECF No. 11 (S.D. Fla. Feb. 19, 2026) (transferring habeas petition brought by Florida Soft Side South detainee to the Middle District of Florida because “jurisdiction lies in only one district: the district of confinement”); *Zhang v. United States*, 21-CV-81382-ALTMAN, 2021 U.S. Dist. LEXIS 162725, at *2-3 (S.D. Fla. Aug. 25, 2021) (dismissing habeas petition for lack of jurisdiction where detainee was detained in Glades County Jail, in Glades County, Florida, because jurisdiction lies in the district of confinement).

WHEREFORE, Respondents respectfully request that this habeas petition be dismissed or transferred to the Middle District of Florida.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 19, 2026, I electronically filed the foregoing document with the Clerk of Court using CM/ECF and on the same date sent by U.S. Mail a copy of the same to all pro se parties.

/s/Danielle Croke
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