

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 22-11351-J

In re: MARIA NAVARRO MARTIN,

Petitioner.

On Petition for Writ of Mandamus

ORDER:

Maria Navarro Martin, a Florida prisoner proceeding *pro se*, has filed a petition for writ of mandamus, arising from her state criminal proceedings in Florida. Martin also moves this Court for leave to proceed *in forma pauperis* ("IFP") as to her mandamus petition. Martin requests that this Court direct the state courts to transmit her records to this Court. She also requests that this Court review the legality of the state court orders and declare, as a matter of law, that she was denied due process in her criminal proceedings.

Martin seeks to file this mandamus petition IFP pursuant to 28 U.S.C. § 1915(a). Section 1915(a) provides that a United States court may authorize the commencement of any proceeding, without prepayment of fees, by a person who submits an affidavit that includes a statement of assets that she possesses and indicates that she is unable to pay such fees. This Court, however, may dismiss an action at any time if it determines that the allegation of poverty is untrue or the action or appeal is frivolous. 28 U.S.C. § 1915(e)(2). Assuming, without deciding, that Martin has satisfied § 1915(a)'s poverty requirement, her mandamus petition is nevertheless frivolous, and so her IFP motion is due to be denied.

Mandamus is available only in drastic situations, when no other adequate means are available to remedy a clear usurpation of power or abuse of discretion. *United States v. Shalhoub*, 855 F.3d 1255, 1259, 1263 (11th Cir. 2017); *Jackson v. Motel 6 Multipurpose, Inc.*, 130 F.3d 999, 1004 (11th Cir. 1997). Mandamus may not be used as a substitute for appeal or to control decisions of the district court in discretionary matters. *Jackson*, 130 F.3d at 1004. The petitioner has the burden of showing that she has no other avenue of relief, and that her right to relief is clear and indisputable. *Mallard v. United States Dist. Court*, 490 U.S. 296, 309 (1989). A writ of mandamus may issue only “to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so.” *Shalhoub*, 855 F.3d at 1263 (quotation marks omitted).

Section 2254 of Title 28 of the U.S. Code provides the remedy for a state prisoner who claims that she is in custody in violation of the “Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a).

Here, Martin’s claim for mandamus relief is frivolous. To the extent that she asks this Court to order the state courts and their clerks to transmit records to this Court, her request is not cognizable in mandamus because this Court may only compel a lower federal court to exercise its authority, and it does not have authority in mandamus to order a state court to act. *See Shalhoub*, 855 F.3d at 1263. Likewise, Martin’s request that this Court review her case and find that she was denied due process, is not cognizable because this Court does not have authority in mandamus to act itself. In any case, Martin also has the adequate alternative remedy of challenging the constitutionality of her state conviction and sentence by filing a 28 U.S.C. § 2254 habeas corpus petition, subject to all the requirements for filing such a petition. *See Jackson*, 130 F.3d at 1004; 28 U.S.C. § 2254(a).

Accordingly, Martin's IFP motion is hereby **DENIED**, as her mandamus petition is frivolous.

/s/ Robert J. Luck
UNITED STATES CIRCUIT JUDGE

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 22-11351-J

In re: MARIA NAVARRO MARTIN,

Petitioner.

On Petition for Writ of Mandamus to the United States District Court for the
Northern District of Florida

ORDER: Pursuant to the 11th Cir. R. 42-1(b), this petition is hereby DISMISSED for want of prosecution because the Petitioner Maria Navarro Martin failed to pay the filing and docketing fees to the clerk of this court within the time fixed by the rules.

Effective July 19, 2022.

DAVID J. SMITH
Clerk of Court of the United States Court
of Appeals for the Eleventh Circuit

FOR THE COURT - BY DIRECTION

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 22-11353-J

In re: MARIA NAVARRO MARTIN,

Petitioner.

On Petition for Writ of Prohibition to the United States District Court for the
Northern District of Florida

ORDER: Pursuant to the 11th Cir. R. 42-1(b), this appeal is DISMISSED for want of prosecution because the appellant Maria Navarro Martin failed to file a six month certified financial statement within the time fixed by the rules.

Effective June 16, 2022.

DAVID J. SMITH
Clerk of Court of the United States Court
of Appeals for the Eleventh Circuit

FOR THE COURT - BY DIRECTION

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

MARIA NAVARRO-MARTIN,

Petitioner,

v.

Case No. 5:22-cv-405-TPB-PRL

STATE OF FLORIDA,

Respondent.

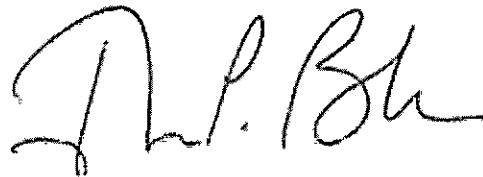
ORDER OF TRANSFER

Petitioner initiated this case by filing a Petition for Writ of Habeas Corpus (Doc. 1) in the United States District Court for the Southern District of Florida. On September 9, 2022, the Southern District of Florida transferred the case to the Middle District of Florida, Ocala Division (Doc. 6). Petitioner is currently in state court custody pursuant to a 2019 judgment of conviction entered by the Circuit Court, in and for Orange County, Florida. *See* Florida Department of Corrections, Corrections Offender Network, available at www.dc.state.fl.us (last visited Sept. 15, 2022). In the Petition, Petitioner appears to challenge that Orange County, Florida, judgment of conviction.¹ *See generally* Doc. 1. Therefore, pursuant to Local Rule 1.04

¹ Petitioner filed the Petition under 28 U.S.C. § 2241; however, because Petitioner is in custody pursuant to a state court judgment of conviction, her request for habeas relief should be pursued under 28 U.S.C. § 2254 in the district in which Petitioner was convicted. *See Felker v. Turpin*, 518 U.S. 651, 662 (1996) (holding the federal courts' "authority to grant habeas relief to state prisoners is limited by § 2254, which specifies the conditions under which such relief may be granted to 'a person in custody pursuant to the judgment of a State court.'"); *Medberry v. Crosby*, 351 F.3d 1049, 1060-61 (11th Cir. 2003) (holding that state prisoner cannot overcome the procedural requirements of § 2254 by labeling his petition as one under § 2241).

and 28 U.S.C. § 2241(d), this case is transferred to the Orlando Division of this Court for all further proceedings, and the **Clerk** shall immediately forward the file to that Division.

DONE AND ORDERED in Tampa, Florida, this 15th day of September, 2022.

A handwritten signature in black ink, appearing to read 'T. P. Barber', written over a horizontal line.

TOM BARBER
UNITED STATES DISTRICT JUDGE

caw 9/15/Jax-7

c:

Maria Navarro-Martin, #G30340

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case Number: 22-22799-CIV-MARTINEZ

MARIA NAVARRO-MARTIN,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

_____ /

ORDER TRANSFERRING CASE TO MIDDLE DISTRICT OF FLORIDA

THIS CAUSE is before the Court on Petitioner Maria Navarro-Martin's *pro se* Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 (ECF No. 1). Petitioner, a Florida state prisoner incarcerated at the Florida Women's Reception Center in Ocala, Florida, challenges her pending criminal proceeding in the Ninth Judicial Circuit in and for Orange County, Florida, in Case No. 17-CF-1585-B-O. Under 28 U.S.C. § 2241, "[d]istrict courts are limited to granting habeas relief 'within their respective jurisdictions.'" *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004) (quoting 28 U.S.C. § 2241(a)). Thus, "for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement." *Id.* at 443. The Florida Women's Reception Center is within the jurisdiction of the United States District Court for the Middle District of Florida. *See* 28 U.S.C. § 89(b). Accordingly, the Middle District of Florida is Petitioner's present district of confinement, and this Court lacks jurisdiction to hear this case.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

MARIA NAVARRO-MARTIN,

Petitioner,

v.

Case No: 6:22-cv-804-RBD-LHP

SECRETARY, DEPARTMENT OF
CORRECTIONS and ATTORNEY
GENERAL, STATE OF FLORIDA,

Respondents.

ORDER


This cause is before the Court upon *sua sponte* review of the file. On April 29, 2022, the Court entered an Order (Doc. 2) requiring Petitioner to file, within twenty-one days from the date of the Order, an Affidavit of Indigency. Further, the Court notified Petitioner that the failure to do so would result in the dismissal of the action without further notice. As of the date of this Order, Petitioner has failed to comply.

Accordingly, it is ORDERED and ADJUDGED as follows:

1. This case is **DISMISSED without prejudice.**
2. The Clerk of the Court is directed to close this case.

DONE and ORDERED in Orlando, Florida on May 31, 2022.




ROY B. DALTON JR.
United States District Judge

Copies furnished to:

Unrepresented Party