

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

ANNE MARIE KEHOE,)	
)	
Petitioner)	
)	1:22-cv-00230-JAW
v.)	
)	
LARRY A. REYNOLDS,)	
)	
Respondent)	

**RECOMMENDED DECISION
AFTER REVIEW OF PETITION**

Petitioner requests a writ of habeas corpus pursuant to 28 U.S.C. § 2241. (Petition, ECF No. 1.) According to Rule 4 of the Rules Governing Section 2254 Cases (i.e., habeas cases), upon the filing of a petition, the Court must conduct a preliminary review of the petition, and “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.”¹ Upon review of the petition, I recommend the Court dismiss the petition for lack of jurisdiction.

DISCUSSION

“Federal courts are courts of limited jurisdiction. They cannot act in the absence of subject matter jurisdiction, and they have a sua sponte duty to confirm the existence of jurisdiction in the face of apparent jurisdictional defects.” *United States v. Univ. of Mass., Worcester*, 812 F.3d 35, 44 (1st Cir. 2016). “District courts are limited to granting habeas

¹ Although Petitioner seeks habeas relief under § 2241, “the § 2254 rules specifically state that they may be applied by the district court to other habeas petitions.” *Bramson v. Winn*, 136 F. App’x 380, 382 (1st Cir. 2005) (citing Rule 1(b) of the Rules Governing § 2254 Cases); *see also, McFarland v. Scott*, 512 U.S. 849, 856 (1994) (“Federal courts are authorized to dismiss summarily any habeas petition that appears legally insufficient on its face. . .”).

relief ‘within their respective jurisdictions.’” *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004) (quoting 28 U.S.C. § 2241(a)). “We have interpreted this language to require ‘nothing more than that the court issuing the writ have jurisdiction over the custodian.’” *Id.* (quoting *Braden v. 30th Judicial Circuit Court of Ky.*, 410 U.S. 484, 495 (1973)). “The plain language of the habeas statute . . . confirms the general rule that for core habeas petitions challenging present physical confinement, jurisdiction lies only in one district: the district of confinement.” *Id.* at 443. “Whenever a § 2241 habeas petitioner seeks to challenge his [or her] present physical custody within the United States, he [or she] should name his [or her] warden as respondent and file the petition in the district of confinement.” *Id.* at 447.

Here, Petitioner seeks habeas relief for another individual, but alleges no facts from which the Court could conclude that the individual is being held in custody in this district.² The Court, therefore, lacks jurisdiction over the matter.

CONCLUSION

Based on the foregoing analysis, I recommend the Court dismiss the petition.

NOTICE

A party may file objections to those specified portions of a magistrate judge’s report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which de novo review by the district court is sought, together with a supporting memorandum, within fourteen (14) days of being served with a copy thereof.

² Petitioner has also failed to allege any facts that would support a finding that Petitioner has “next-friend standing” pursuant to 28 U.S.C. § 2242 to assert the claim. *See Coalition of Clergy, Lawyers, and Professors v. Bush*, 310 F.3d 1153 (9th Cir. 2002).

Failure to file a timely objection shall constitute a waiver of the right to de novo review by the district court and to appeal the district court's order.

/s/ John C. Nivison
U.S. Magistrate Judge

Dated this 27th day of July, 2022.