

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Tyganda Gilmore, #13255171,	)	C/A No. 1:16-2743-JFA-SVH
	)	
Petitioner,	)	
v.	)	ORDER
	)	
J. Ray Ormond, Warden,	)	
	)	
Respondent.	)	
_____	)	

The *pro se* petitioner, Tyganda Gilmore, is an inmate at the United States Penitentiary McCreary in Pine Knot, Kentucky. He brought this action pursuant to 28 U.S.C. § 2241 challenging a detainer that is lodged against him in Richland County, South Carolina for failure to pay child support. Specifically, the petitioner contends he moved under the Interstate Agreement on Detainers (“IADA”) for a final disposition of his charges and that the Richland County Solicitor failed to respond.

The Magistrate Judge assigned to this action<sup>1</sup> has prepared a Report and Recommendation and opines that this matter should be transferred to the United States District Court for the Eastern District of Kentucky. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without

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<sup>1</sup> The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

a recitation.

The petitioner filed timely objections to the Report. Therein, the petitioner essentially states that he hopes that this court can transfer his petition to the correct district court.

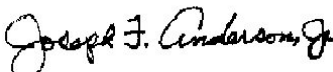
In her Report, the Magistrate Judge correctly opines that this court lacks personal jurisdiction over petitioner's custodian/respondent, Warden Ormond in Kentucky. The Magistrate Judge cites *Rumsfeld v. Padilla*, 542 U.S. 426 (2004) which explains that the proper party respondent is generally the person who has the immediate custody of the party detained.

After carefully reviewing the applicable laws, the record in this case, the Report and Recommendation, and the petitioner's response thereto, this court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law and it is incorporated herein by reference.

Accordingly, the Clerk is authorized to transfer this action to the United States District Court for the Eastern District of Kentucky.

IT IS SO ORDERED.

October 13, 2016  
Columbia, South Carolina

  
Joseph F. Anderson, Jr.  
United States District Judge