

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, TAMPA DIVISION

Carmen Maria Franco v. Chris Nocco

Franco · No. 8:26-cv-232-TPB-SPF · Decided January 29, 2026

SUMMARY

The United States District Court for the Middle District of Florida dismissed Carmen Maria Franco’s 28 U.S.C. § 2241 habeas petition without prejudice for lack of jurisdiction because she was not in custody. The court denied her emergency motion to stay enforcement of a state capias as moot and directed the Clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Tampa Division
WRITING FOR THE COURT	Tom Barber
JURISDICTION	United States District Court for the Middle District of Florida, Tampa Division
DECIDED	January 29, 2026
DOCKET	8:26-cv-232-TPB-SPF
DISPOSITION	dismissed
PROCEDURAL POSTURE	Franco filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2241 and an emergency motion to stay enforcement of a state-court capias warrant. The district court dismissed the petition without prejudice for lack of subject-matter jurisdiction and denied the emergency motion as moot.
STANDARD OF REVIEW	Jurisdictional review of the § 2241 custody requirement; the court determined whether the petitioner's allegations established that she was in custody.
PRECEDENTIAL VALUE	Nonprecedential district court order
PARTIES	Carmen Maria Franco v. Chris Nocco, Sheriff of Pasco County

TOPICS

- federal habeas corpus
- habeas corpus
- subject matter jurisdiction
- due process

PRACTICE AREAS

Federal habeas corpus

Federal jurisdiction

Criminal procedure

QUESTIONS PRESENTED

1. Whether Franco was in custody within the meaning of 28 U.S.C. § 2241 based on an outstanding capias warrant and an alleged ongoing threat of arrest.
2. Whether the district court had jurisdiction over Franco's § 2241 habeas petition.
3. Whether Franco's emergency motion to stay enforcement of the capias should be granted.

HOLDINGS

1. An outstanding capias warrant and an alleged ongoing threat of arrest did not place Franco in custody because the state court's order imposed no limitation or restriction on her actions or movement.
2. The district court lacked jurisdiction because Franco was not in custody when she filed the petition.
3. The emergency motion to stay enforcement of the capias was denied as moot.

KEY QUOTATIONS

"Accordingly, because Carmen is not in custody, the § 2241 petition for a writ of habeas corpus (Doc. 1) must be DISMISSED WITHOUT PREJUDICE for lack of jurisdiction." (Order at disposition paragraph)

FACTUAL BACKGROUND

Franco faced misdemeanor charges in Pasco County, including resisting an officer without violence and driving with a suspended license, and an outstanding capias warrant had been issued. The state court denied her motion to withdraw the public defender as counsel, stating that it would not address her request while the capias remained outstanding. Franco alleged that the warrant and the state court's action denied her access to the courts and due process, but she was not incarcerated and identified no restriction on her freedom of movement beyond the alleged threat of arrest.

PROCEDURAL HISTORY

Franco was facing misdemeanor charges in Pasco County, Florida, and challenged the constitutionality of an outstanding capias warrant and the state court's refusal to adjudicate certain motions while the capias remained outstanding. She filed the federal § 2241 petition and emergency stay motion. The district court concluded that she was not in custody for purposes of § 2241, dismissed the petition without prejudice, denied the emergency motion as moot, terminated pending motions, and closed the case.

DISPOSITION

dismissed

CASES CITED

- *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968)

- Diaz v. Fla. Fourth Jud. Cir., 683 F.3d 1261, 1263 (11th Cir. 2012)
- Clements v. Florida, 59 F.4th 1204, 1214-15 (11th Cir. 2023)
- Manimtim v. Okaloosa County Circuit Court, No. 3:25-cv-209-LAC-ZCB, 2025 WL 1186313, at *3 (N.D. Fla. Mar. 17, 2025)
- Franco v. Wansboro, No. 8:25-cv-1418-SDM-AEP, Doc. 32 (M.D. Fla.)

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