

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NORTH
DAKOTA**

Joshua Brock Martinez v. North Dakota Attorney General

Martinez · No. 1:26-cv-066 · Decided March 11, 2026

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NORTH DAKOTA
Joshua Brock Martinez,)) Petitioner,) ORDER vs.)) North Dakota Attorney General,) Case No.
1:26-cv-066) Respondent.) On March 10, 2026, Petitioner filed a “Petition Under 28 U.S.C.
2254 for Writ of Habeas Corpus by a Person in State Custody.” In the caption of the petition,
Petitioner advertently neglected to identify the proper Respondent, i.e., the person who presently
has custody of him.

Rule 2 of the Rules Governing Section 2254 Cases provides: “If the applicant is presently in
custody pursuant to the state judgment in question, the application shall be in the form of a
petition for a writ of habeas corpus in which the state officer having custody of the applicant shall
be named as respondent.” It is apparent from the petition and the envelope in which it was mailed
that Petitioner is presently incarcerated at the North Dakota State Penitentiary on a state court
sentence.

Joseph Joyce is the Warden of the North Dakota State Penitentiary, making him the state officer
who has custody of Petitioner for purposes of Rule 2. Plaintiff’s failure to name Warden Joyce as
Respondent is a technical error.

In the interest of justice and in reaching the merits of the petition, the court sua sponte substitutes
Warden Joyce as Respondent in this matter. See e.g, Allen v. Warden, Pickaway Corr. Inst., No.
3:22-CV-133, 2024 WL 808832, at *2 (S.D. Ohio Feb. 27, 2024) (sua sponte substituting the
proper respondent in a petition for a writ of habeas corpus under 28 U.S.C. §2254); Cf. Mayorga
v. Meade, No. 24-CV-22131, 2024 WL 4298815, at *3 (S.D.

Fla. Sept. 26, 2024) (sua 1 sponte ordering the substitution of the proper respondent in a petition
for a writ of habeas corpus pursuant to 28 U.S.C. 2241). IT IS SO ORDERED. Dated this 11th
day of March, 2026. /s/ Clare R. Hochhalter Clare R. Hochhalter, Magistrate Judge United States
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