HARVARD, et al.,

Plaintiffs,

v. **Case No. 4:19-cv-212-AW-MAF**

RICKY DIXON, Secretary of Florida
Department of Corrections, et al.,

Defendants.

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ORDER DENYING MOTION FOR PARTIAL SUMMARY JUDGMENT

The Secretary has moved for partial summary judgment as to Plaintiffs Eighth Amendment claims. ECF No. 343. He argues that the claims include facial challenges to written policies and that Plaintiffs cannot win under the no-set-of-circumstances standard typically applicable to facial challenges. He also argues that because Plaintiffs seek to exclude the Youth and Serious M ctT44009e2M(u)4(s)-3(

would apply to *all* inmates the challenge is facial regardless of the label Plaintiffs use. ECF No. 343 at 15-16. The Secretary correctly notes that Plain precise claims remain unclear. And it is true that Plaintiffs have pointed to some of the regulations as relevant to their Eighth Amendment claim. But in the end, I cannot agree with the Secretary that Plaintiffs the Confinement Policies are facially invalid.

their underdeveloped records, risk of anticipating questions of constitutional law, and risk of interfering with the democratic process. *Am. Fed'n of State, Cnty. & Mun. Emps. Council 79 v. Scott*, 717 F.3d 851, 864 (11th Cir. 2013) (citing

Here, Plaintiffs disclaim any notion that they challenge the facial validity of any particular regulation. They challenge various policies and practices. [1] ECF No. 309 ¶ 198. They ask the court to *conditions, acts, omission, policies, and practices* of Defendants and their agents, officials, and employees . *Id.* ¶ 226. Thus, there is no real dispute or controversy as to the constitutional validity of the Confinement Policies standing alone because Plaintiffs do not challenge those policies in isolation. *Cf. TransUnion LLC v. Ramirez* Article III, federal courts do not adjudicate hypothetical or abstract disputes. Federal courts do not possess a

challenge a combination

prevent serious risk of mental and physical harm. ECF No. 309 ¶¶ 178, 185. In other words, challenge presents the question of whether the *conditions* in solitary confinement (as FDC currently uses it) are too extreme for youth and those with mental illness to square with the Eighth Amendment. This question does not transform the Eighth Amendment claim into one challenging the fact or duration of [their] confinement, where habeas is the exclusive remedy. *Heck v. Humphrey*, 512 U.S. 477, 481 (1994). The claims are properly understood as being about [] confinement but not the validity of [the] conviction and/or sentence. *Hutcherson v. Riley*, 468 F.3d 750, 754 (11y85.09 404 Tf1 0] TJETQBT/4(i)4 G.3 with mental illness; 14 in E.

population. 232 So. 3d at 966. Here, Plaintiffs do not challenge disciplinary decisions that placed them in isolation (or will later place them in isolation) or determinations about how long they would remain in isolation. Thus, it is not the fact of Plaintiffs placement in isolation (or the sufficiency of the process used to place them there) that is at issue here it is the constitutionality of the conditions Plaintiffs face while in isolation.[3]

In sum, these are not habeas claims that were inappropriately brought under § 1983, and summary judgment is not warranted.

The motion (ECF No. 343) is DENIED.

SO ORDERED on July 27, 2022.

s/ *Allen Winsor*
United States District Judge

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[3] In unpublished decisions, the Eleventh Circuit has drawn similar conclusions. *See Melendez v. Sec'y, Fla. Dep't of Corr.*, 2022 WL 1124753, at *20 (11th Cir. Apr. 15, 2022) § 1983 [was] a proper vehicle for the Eighth Amendment c and

release from confinement); *Daker v. Warden*, 805 F. App x 648, 650-51 (11th Cir. 2020) (concluding that

segregation was only cognizable under § 1983 while procedural due process claim about disciplinary segregation placement could be brought under habeas).