

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01107-CBS

JAN B. HAMILTON,

Plaintiff,

v.

JAMES B. BOYD, Judge, *et al.*,

Defendants.

ORDER TO OPEN NEW CIVIL CASE

Plaintiff, Jan B. Hamilton, is detained in the Park County Detention Facility in Fairplay, Colorado. Ms. Hamilton initiated this action on May 26, 2015, by filing a "Complaint" (ECF No. 1). On July 28, 2015, Plaintiff filed a Prisoner Complaint (ECF No. 35), pursuant to 42 U.S.C. § 1983, in compliance with court orders to file her pleading on the court-approved form. (See ECF Nos. 3, 14, and 27). Ms. Hamilton has been granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915.

On July 30, 2015, Ms. Hamilton filed, in the present action, an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (ECF No. 38) in which she names Don Bird, Pitkin County jail, and the Attorney General of the State of Colorado as Respondents. Ms. Hamilton also paid the \$5.00 filing fee applicable to habeas corpus actions. (See ECF No. 39). In the § 2254 Application, Ms. Hamilton challenges the validity of her convictions for harassment and false reporting in Garfield County Court Case No. 14M143, for which she was sentenced to a 6-month jail term, to run consecutively to the sentences imposed in Case Nos. 14M92 and 14M30. (ECF No. 38,

at 1-2, 24).

Plaintiff may not pursue civil rights claims and habeas corpus claims in a single action. See generally *McIntosh v. United States Parole Comm'n*, 115 F.3d 809, 811-12 (10th Cir. 1997) (discussing the differences between civil rights claims and habeas corpus proceedings); see also *Palma-Salazar v. Davis*, 677 F.3d 1031, 1035 (10th Cir. 2012) (observing that the Tenth Circuit has distinguished between habeas actions and those challenging conditions of confinement, citing *McIntosh*). Accordingly, it is

ORDERED that the Clerk of the Court shall file the Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (ECF No. 38) and the \$5.00 filing fee (ECF No. 39) in a new civil action opened under 28 U.S.C. § 2254.

DATED August 6, 2015, at Denver, Colorado.

BY THE COURT:

s/Craig B. Shaffer
United States Magistrate Judge