

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-01691-GPG

JAN B. HAMILTON,

Applicant,

v.

DON BIRD, Pitkin County Jail,  
D. MULDOON, Capt., Fairplay, CO, and  
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

---

ORDER DIRECTING APPLICANT TO FILE SECOND AMENDED APPLICATION

---

Applicant, Jan B. Hamilton, is detained in the Park County Detention Facility, in Fairplay, Colorado. She initiated this action by filing, *pro se*, an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (ECF No. 2). Ms. Hamilton has paid the \$5.00 filing fee.

On August 13, 2015, the Court reviewed the Application and determined that it was deficient because it failed to comply with the pleading requirements of Fed.R.Civ.P. 8 and requested monetary relief, which is not available in a habeas corpus proceeding. Accordingly, the Court ordered Ms. Hamilton to file an Amended Application, on the court-approved form, within 30 days. (ECF No. 4).<sup>1</sup> The Clerk of the Court mailed to Plaintiff a copy of the court-approved form for filing an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 the same day. (ECF No. 5).

---

<sup>1</sup>This action has been assigned to Magistrate Judge Gordon P. Gallagher for preliminary review, pursuant to D.C.COLO.LCivR8.1(b). The Court made an inadvertent error in the caption of the August 13, 2015 Order (ECF No. 4), indicating that this case was assigned to Magistrate Judge Craig B. Shaffer.

On August 19, 2015, Ms. Hamilton filed a non-conforming “Petition under 28 U.S.C. § 2254 for Writ of Custody of Habeas Corpus by a Person in State Custody,” in which she states that she is challenging her state court criminal convictions in Pitkin County Case Nos. 10CR76 and 11CR38. (ECF No. 7).

On August 20, 2015, the Court ordered Applicant to show cause, in writing, within 30 days, why the Petition should not be dismissed for failure to exhaust state court remedies, based on Ms. Hamilton’s allegations that is currently seeking state appellate or post-conviction relief challenging the validity of the March 15, 2015 jail sentences imposed in Pitkin County Court Case Nos. 10CR76 and 11CR38 after her probation was revoked. (ECF No. 9, at 2).

On August 31, 2015, Applicant filed a “Petition to Show Cause in Two Cases (14M143 and 10CR76)” (ECF No. 13). The Court construes the Petition liberally as Ms. Hamilton’s response to the August 20 Order to Show Cause. Ms. Hamilton clarifies in the Response the state court convictions that she is challenging in each of her five pending habeas cases:

- 15-cv-1691-GPG: Case 14M143
- 15-cv-1791-GPG: Case 10CR76
- 15-cv-01792-GPG: Case 11CR38
- 15-cv-01879-GPG: Case 14M92
- 15-cv-01882-GPG: Case 14M30

Given the clarification, Ms. Hamilton will be directed to file a Second Amended Application, on the court-approved form, which addresses the validity of her conviction in Pitkin County Case No. 14M143. Ms. Hamilton should also address whether she has exhausted available state court remedies, for 14M143 only, and attach any pertinent state court decisions.

Ms. Hamilton's Second Amended Application must comply with the pleading requirements of Fed.R.Civ.P. 8, as discussed in the August 13, 2014 Order (ECF No. 4). **Furthermore, the Second Amended Application may not exceed 30 pages in length, including any attachments (unless the attachments are state court orders pertaining to 14M143).** Ms. Hamilton is warned that failure to comply with this page limit will result in any excess pages being stricken and not considered by the Court.

Accordingly, it is

ORDERED that Applicant file, **within thirty days from the date of this Order**, a Second Amended Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254, on the court-approved form, that complies with the directives in this Order. It is

FURTHER ORDERED that the Clerk of the Court shall mail to Applicant a copy of the court-approved Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 form. It is

FURTHER ORDERED that if Applicant fails within the time allowed to file a Second Amended Application as directed, the action will be dismissed without prejudice and without further notice.

DATED September 1, 2015, at Denver, Colorado.

BY THE COURT:

s/ Gordon P. Gallagher

---

United States Magistrate Judge