

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

RICKEY LAMAR EVANS, JR.,

Plaintiff,

v.

Case No. 8:23-cv-2365-CEH-CPT

MARRISSA K. ROZAS, *et al.*,

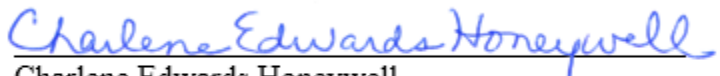
Defendants.

ORDER

Plaintiff, a Florida pre-trial detainee, initiated this action by filing a civil rights complaint under 42 U.S.C. § 1983 (Doc. 1). Now he has filed a petition for the writ of habeas corpus in this case (Doc. 3). The habeas petition must proceed in a separate case. *See Kerlin v. Barnard*, 742 F. App'x 488, 489 (11th Cir. 2018) (per curiam) (noting that a habeas petition and § 1983 claim are “mutually exclusive” and cannot be raised in the same action (citing *Hutcherson v. Riley*, 468 F.3d 750, 754 (11th Cir. 2006) and *McNabb v. Comm’r Ala. Dep’t of Corr.*, 727 F.3d 1334, 1344 (11th Cir. 2013))).

Accordingly, the Clerk is directed to (1) terminate the motion at docket entry #3; and (2) open a new civil action and docket the motion (Doc.# 3) as a petition for the writ of habeas corpus under 28 U.S.C. § 2241 and docket a copy of this Order.

ORDERED in Tampa, Florida, on December 15, 2023.


Charlene Edwards Honeywell
United States District Judge

Copy to: Plaintiff, *pro se*