

FILED
UNITED STATES DISTRICT COURT

DEC 19 2005

GREGORY C. DWYHAM
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 05-cv-02507-OES

LESTER ROY RETHERFORD,
Petitioner

v.

EDWARD ZAHREN, U.S. Marshal (D/CO),
Respondent.

ORDER DIRECTING PETITIONER TO FILE AMENDED PLEADING

Petitioner Lester Roy Retherford has filed *pro se* a "Petition for Writ of Habeas Corpus and Notice of Constitutional Question." The court must construe the petition liberally because Mr. Retherford is representing himself. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). However, the court should not be the *pro se* litigant's advocate. *See Hall*, 935 F.2d at 1110. For the reasons stated below, Mr. Retherford will be ordered to file an amended pleading.

The court has reviewed the habeas corpus petition filed in this action and finds that the petition is deficient. First, Mr. Retherford has failed to use the appropriate form for a habeas corpus petition. Pursuant to Rule 8.1A. of the Local Rules of Practice of the United States District Court for the District of Colorado-Civil, a *pro se* party must use the forms established by the court to file an action. The clerk of the court will be directed to provide Mr. Retherford with the proper form for filing an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The court also finds that the habeas corpus petition filed by Mr. Retherford is deficient because he fails to set forth clearly and concisely the claims for relief he is asserting. In order to pursue his claims in this action, Mr. Retherford must allege, clearly and concisely, which of his constitutional rights have been violated and how they have been violated. Accordingly, it is

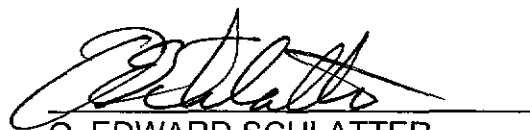
ORDERED that Mr. Retherford file **within thirty (30) days from the date of this order** an amended pleading on the proper form that complies with this order. It is

FURTHER ORDERED that the clerk of the court mail to Mr. Retherford, together with a copy of this order, two copies of the following forms: Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. It is

FURTHER ORDERED that, if Mr. Retherford fails within the time allowed to file an amended pleading that complies with this order to the court's satisfaction, the action will be dismissed without further notice.

DATED at Denver, Colorado, this 19 day of December, 2005.

BY THE COURT:



O. EDWARD SCHLATTER
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 05-cv-02507-OES

Lester Roy Retherford
113 Latigo Lane #D-408
Canon City, CO 81212-8101

I hereby certify that I have mailed a copy of the **ORDER and two copies of Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241** to the above-named individuals on 12/19/05

GREGORY C. LANGHAM, CLERK

By: _____



Deputy Clerk