

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADOFILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

Civil Action No. 06-cv-01117-BNB

RONALD LEE SMITH,  
Applicant,

JUN 21 2006

GREGORY C. LANGHAM  
CLERK

v.

LARRY REID, Warden, and  
JOHN W. SUTHERS, Attorney General of the State of Colorado,  
Respondents.

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ORDER TO TRANSFER APPLICATION TO COURT OF APPEALS

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Applicant Ronald Lee Smith is a prisoner in the custody of the Colorado Department of Corrections at the Centennial Correctional Facility at Cañon City, Colorado. Mr. Smith has filed *pro se* an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Mr. Smith is challenging the validity of his convictions in Denver District Court case numbers 91-CR-579 and 91-CR-580. For the reasons stated below, the application will be transferred to the United States Court of Appeals for the Tenth Circuit.

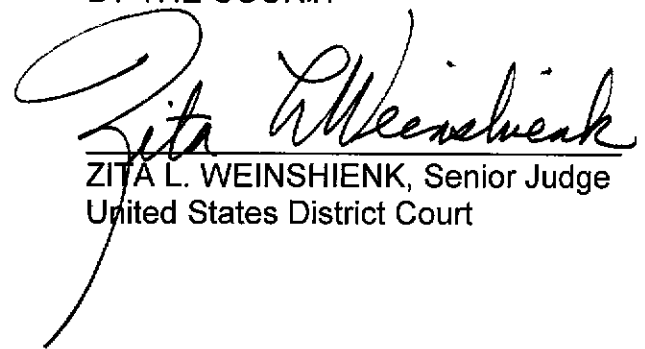
Mr. Smith previously has sought habeas corpus relief in this Court pursuant to 28 U.S.C. § 2254. *See Smith v. Reid*, No. 02-cv-02033-ZLW (D. Colo. Dec. 27, 2002), *appeal dismissed*, No. 03-1016 (10<sup>th</sup> Cir. May 16), *cert. denied*, 540 U.S. 959 (2003). In 02-cv-02033-ZLW, Mr. Smith challenged the validity of the same state court convictions he is challenging in the instant action. The habeas corpus application in 02-cv-02033-ZLW was denied as barred by the one-year limitation period in 28 U.S.C. § 2244(d). Therefore, the instant application is a second or successive application.

Pursuant to 28 U.S.C. § 2244(b)(3), Mr. Smith must apply to the United States Court of Appeals for the Tenth Circuit for an order authorizing this Court to consider his second or successive application. Mr. Smith does not allege that he has obtained the necessary authorization from the Tenth Circuit. Therefore, the Court must transfer this action to the Tenth Circuit pursuant to 28 U.S.C. § 1631. **See *Coleman v. United States***, 106 F.3d 339, 341 (10<sup>th</sup> Cir. 1997) (per curiam). Accordingly, it is

ORDERED that the clerk of this Court transfer the instant action to the United States Court of Appeals for the Tenth Circuit pursuant to 28 U.S.C. § 1631.

DATED at Denver, Colorado, this 20 day of June, 2006.

BY THE COURT:

  
ZITA L. WEINSHIENK, Senior Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**CERTIFICATE OF MAILING**

Civil Action No. 06-cv-01117-BNB

Ronald Lee Smith  
Prisoner No. 44371  
Centennial Corr. Facility  
P.O. Box 600  
Canon City, CO 81215

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 6-21-06

GREGORY C. LANGHAM, CLERK

By:  \_\_\_\_\_  
Deputy Clerk