

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 06-cv-01663-BNB

TED SHAMUS WAGNER,

Applicant,

v.

TELLER COUNTY JAIL,

Respondent.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

SEP - 1 2006

MARGERY C. LANCHAM
CLERK

ORDER DIRECTING APPLICANT TO FILE AMENDED APPLICATION

Applicant Ted Shamus Wagner has filed a *pro se* Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. The Court must construe the Application liberally because Mr. Wagner is a *pro se* litigant. *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 act as a *pro se* litigant's advocate. *See Hall*, 935 F.2d at 1110.

Pursuant to 28 U.S.C. § 2243 an application for writ of habeas corpus is directed to the person who is the custodian of the person detained. The only correct respondent would be the custodian of the facility where Mr. Wagner is detained or is incarcerated. Therefore, Mr. Wagner will be ordered to file an Amended Application and name a proper Respondent. Accordingly, it is

ORDERED that Mr. Stevens file **within thirty days from the date of this Order** an Amended Application that complies with the Order. It is

FURTHER ORDERED that the Clerk of the Court mail to Mr. Wagner, 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. Wagner fails within the time allowed to file an Amended Application that complies with this Order, to the Court's satisfaction, the action will be dismissed without further notice.

DATED September 1, 2006, at Denver, Colorado.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 06-cv-01663-BNB

Ted S. Wagner
C-Pod #251
Teller County Jail
P.O. Box 730
Divide, CO 80814

I hereby certify that I have mailed a copy of the **ORDER** and **two copies of the Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241** to the above-named individuals on 9/1/06

GREGORY C. LANGHAM, CLERK

By: _____


Deputy Clerk