

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 07-cv-01419-BNB

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

CLYDE E. SAVAGE,

Applicant,

JUL 11 2007

v.

GREGORY C. LANGHAM
CLERKSTEVEN HARTLEY, Warden, Limon Corr. Facility, and THE ATTORNEY GENERAL
OF THE STATE OF COLORADO,

Respondents.

ORDER DIRECTING APPLICANT TO SUPPLEMENT APPLICATION

Applicant, Clyde E. Savage, is a prisoner in the custody of the Colorado Department of Corrections (DOC) at the Limon, Colorado, correctional facility. Mr. Savage initiated this action by filing *pro se* an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (2006). He has paid the \$5.00 filing fee.

The Court must construe the application liberally because Mr. Savage 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. Savage will be ordered to supplement the application with additional information.

Mr. Savage is challenging the validity of his 1988 conviction in Denver District Court case number 86-CR-2166. He alleges that he was convicted by a jury on one count of extreme indifference murder, and that he was sentenced to life in prison with parole after forty years. Judgment of conviction was entered on August 4, 1988.

He alleges that he appealed directly from the judgment of conviction to the Colorado Court of Appeals, which on June 24, 1993, affirmed the judgment of conviction. In December 1993, certiorari review was denied.

Over three years later, on July 10, 1996, he filed a postconviction motion pursuant to Rule 35(c) of the Colorado Rules of Criminal Procedure in the Denver District Court, which on October 4, 1996, denied the motion. On June 13, 2002, the Colorado Court of Appeals affirmed. Also in 2002, the Colorado Supreme Court denied certiorari review. On March 13, 2003, Mr. Savage filed a second Colo. R. Crim. P. 35(c) postconviction motion in the trial court, which on June 10, 2005, denied the motion. On October 12, 2006, the Colorado Court of Appeals affirmed. On February 26, 2007, certiorari review was denied. On July 6, 2007, Mr. Savage's application was filed in this Court. In the application, Mr. Savage asserts two claims, both of which were raised in his postconviction motions.

The Court finds that additional information is necessary to complete an initial review of the habeas corpus application and to determine whether the application is filed in a timely manner pursuant to 28 U.S.C. § 2244(d) (2006). The specific information the Court needs is the exact date when certiorari review was denied on direct appeal, the exact date when certiorari review was denied on Mr. Savage's first postconviction Colo. R. Crim. P. 35(c) motion, and the reason or reasons his second postconviction Colo. R. Crim. P. 35(c) motion was denied. This information is essential to the Court's application of the one-year limitation period.

Therefore, Mr. Savage will be directed to file a supplement to the application that provides the information necessary to determine if this action is filed in a timely manner.

If possible, Mr. Savage should submit copies of any orders pertinent to his direct appeal and postconviction proceedings. Accordingly, it is

ORDERED that Mr. Savage file **within thirty (30) days from the date of this order** a supplement to the habeas corpus application that provides the information requested in this order. It is

FURTHER ORDERED that Mr. Savage's response to the order to supplement shall be titled, "Response to Order to Supplement," and shall be filed with the Clerk of the Court for the United States District Court for the District of Colorado at the Alfred A. Arraj U.S. Courthouse, 901 Nineteenth Street, Room A-105, Denver, Colorado 80294-3589. It is

FURTHER ORDERED that if Mr. Savage fails to file a supplement to the habeas corpus application that provides the information requested in this order within the time allowed, the action will be dismissed without further notice.

DATED July 11, 2007, 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. 07-cv-01419-BNB

Clyde E. Savage
Prisoner No. 58832
Limon Correctional Facility
49030 State Hwy. 71
Limon, CO 80826

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 7/11/07

GREGORY C. LANGHAM, CLERK

By: 
Deputy Clerk