

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 07-cv-01580-BNB

GERALD ZACHARY HAMMOND,

Applicant,

v.

BILL LOVINGER, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

ORDER DIRECTING APPLICANT TO FILE AMENDED APPLICATION

Applicant Gerald Zachary Hammond currently is detained at the Denver County Jail in Denver, Colorado. Mr. Hammond initiated this action by filing a *pro se* Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. The Court must construe the Application liberally because Mr. Hammond 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. For the reasons stated below, Mr. Hammond will be ordered to file an Amended Application.

The Court has reviewed the Application and finds that it is deficient because Mr. Hammond fails to assert specific facts in support of his claims to demonstrate that his constitutional rights have been violated. In Claim One, Mr. Hammond simply states "entrapment." In support of the entrapment claim, Applicant asserts that sting operations are illegal. In Claim Two, Mr. Hammond asserts the he is a victim of history

and circumstance in support of his malicious prosecution claim. Finally in Claim Three, Applicant simply states ineffective assistance of counsel.

Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts requires that Mr. Hammond go beyond notice pleading. *See Blackledge v. Allison*, 431 U.S. 63, 75 n.7 (1977). He must allege specific facts to support each asserted claim. Naked allegations of constitutional violations are not cognizable under 28 U.S.C. § 2254. *See Ruark v. Gunter*, 958 F.2d 318, 319 (10th Cir. 1992) (per curiam). Therefore, Mr. Hammond will be ordered to file an Amended Application in which he identifies the specific claims for relief he is asserting as well as the specific facts that support each asserted claim. Accordingly, it is

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

FURTHER ORDERED that the Clerk of the Court mail to Mr. Hammond, together with a copy of this Order, two copies of the following form: Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. It is

FURTHER ORDERED that if Mr. Hammond fails within the time allowed to file an Amended Application as directed the action will be dismissed without further notice.

DATED at Denver, Colorado, this 13th day of August, 2007.

BY THE COURT:

s/Craig B. Shaffer

Craig B. Shaffer

United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

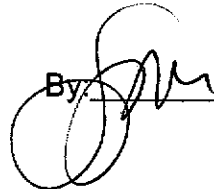
CERTIFICATE OF MAILING

Civil Action No. 07-cv-01580-BNB

Gerald Z. Hammond
Prisoner No. 1547541
Denver County Jail
PO Box 1108 Bldg 20H-19
Denver, CO 80201

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. § 2254** to the above-named individuals on 8/14/07

GREGORY C. LANGHAM, CLERK

By  _____
Deputy Clerk