

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 07-cv-01822-BNB

PATRICK L. BRENNER,

Applicant,

v.

WARDEN BRIGHAM SLOAN, and  
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

SEP 06 2007

GREGORY C. LANGHAM  
CLERK

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ORDER TO TRANSFER APPLICATION TO COURT OF APPEALS

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Applicant Patrick L. Brenner is in the custody of the Colorado Department of Corrections at the Bent County Correctional Facility at Las Animas, Colorado. Mr. Brenner has filed *pro se* an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the validity of his convictions in Mesa County District Court case numbers 91-CR-30 and 91-CR-31. For the reasons stated below, the application will be transferred to the United States Court of Appeals for the Tenth Circuit.


Mr. Brenner previously has sought habeas corpus relief in this Court pursuant to 28 U.S.C. § 2254. *See Brenner v. Brill*, No. 06-cv-00049-ZLW (D. Colo. Mar. 14, 2006), *appeal dismissed*, No. 06-1111 (10<sup>th</sup> Cir. July 25, 2006). In 06-cv-00049-ZLW, Mr. Brenner challenged the validity of the same state court convictions he is challenging in the instant action. The habeas corpus application in 06-cv-00049-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. Brenner 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. Brenner 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 5 day of Sept, 2007.

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. 07-cv-00419-BNB

Patrick L. Brenner  
Prisoner No. 66893  
Bent County Correctional Facility  
11560 Road FF.75  
Las Animas, CO 81054-9573

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 9/6/07

GREGORY C. LANGHAM, CLERK

By: \_\_\_\_\_



Deputy Clerk