

FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn

Civil Case No. 07-cv-02513-REB-MJW

GARY DeWILLIAMS,

Applicant,

v.

BLAKE DAVIS, Warden,

Respondent.

**ORDER OVERRULING OBJECTIONS TO AND ADOPTING
RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE**

Blackburn, J.

The matters before me are (1) the magistrate judge's **Recommendation on Amended Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Docket No. 12)** [#64] filed September 15, 2009; and (2) applicant's **Motion To Alter or Amend the Judgment Pursuant to Rule 59(e) Fed.R.Civ.P.** [#67] filed September 25, 2009, which judgment has not yet been entered in this case, I construe as applicant's objections to the magistrate judge's recommendation. I overrule the objections and adopt the recommendation.

As required by 28 U.S.C. § 636(b), I have reviewed *de novo* all portions of the recommendation to which objections have been filed, and have considered carefully the recommendation, objections, and applicable caselaw. Moreover, because applicant is proceeding *pro se*, I have construed his pleadings more liberally and held them to a less stringent standard than formal pleadings drafted by lawyers. **See *Erickson v. Pardus***, 551 U.S. 89, 94, 127 S. Ct. 2197, 2200, 167 L.Ed.2d 1081 (2007); ***Andrews v. Heaton***,

483 F.3d 1070, 1076 (10th Cir. 2007); **Hall v. Bellmon**, 935 F.2d 1106, 1110 (10th Cir. 1991) (citing **Haines v. Kerner**, 404 U.S. 519, 520-21, 92 S.Ct. 594, 595-96, 30 L.Ed.2d 652 (1972)). The recommendation is detailed and well-reasoned. Contrastingly, applicant's objections are imponderous and without merit; they are, for the most part, a tired reiteration of arguments previously raised and rejected by the various district court and appellate court judges who have considered them. In a thinly veiled application, which is brought in title only under 28 U.S.C. § 2241, applicant again seeks vainly to achieve time barred relief under 28 U.S.C. § 2255.

Therefore, I find and conclude that the facts presented, arguments advanced, authorities cited, and findings of fact, conclusions of law, and recommendation proposed by the magistrate judge should be approved and adopted.

THEREFORE, IT IS ORDERED as follows:


1. That the magistrate judge's **Recommendation on Amended Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Docket No. 12) [#64]** filed September 15, 2009, is **APPROVED AND ADOPTED** as an order of this court;
2. That the objections to the magistrate judge's recommendation as stated in applicant's **Motion To Alter or Amend the Judgment Pursuant to Rule 59(e) Fed.R.Civ.P. [#67]** filed September 25, 2009, are **OVERRULED**;
3. That the **Amended Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 [#12]**, filed March 18, 2008, is **DENIED**;
4. That judgment **SHALL ENTER** on behalf of respondent, Blake Davis, Warden, and against applicant, Gary DeWilliams, as to all claims for relief and causes

of action asserted in this action; and

5. That respondent is **AWARDED** his costs, to be taxed by the Clerk of the Court pursuant to Fed.R.Civ.P. 54(d)(1) and D.C.COLO.LCivR 54.1.¹

Dated September 30, 2009, at Denver, Colorado.

BY THE COURT:


Robert E. Blackburn
United States District Judge

¹ See *Montgomery v. Meloy*, 90 F.3d 1200, 1206 (7th Cir.), *cert. denied*, 117 S.Ct. 266 (1996).