

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-01944-BNB

JOHN J. McCARTHY,

Applicant,

v.

WARDEN,

Respondent.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
JAN 28 2009
GREGORY C. LANGHAM
CLERK

ORDER OF DISMISSAL

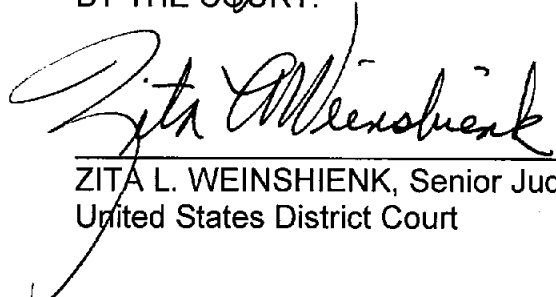
Applicant John J. McCarthy initiated this action by filing *pro se* an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 on the Court's approved form that is largely blank and another document titled "Application for a Writ of Habeas Corpus." On October 22, 2008, Magistrate Judge Boyd N. Boland ordered Mr. McCarthy to file an amended application on the proper form that clarifies the claims he is asserting in this action. Mr. McCarthy was warned that the action would be dismissed without further notice if he failed to file an amended pleading within thirty days. In an order filed on November 13, 2008, the Court overruled Mr. McCarthy's objections to Magistrate Judge Boland's October 22 order and directed him to file an amended pleading within thirty days.

Mr. McCarthy has failed to file an amended pleading within the time allowed. Therefore, the applications will be denied and the action will be dismissed without prejudice for failure to file an amended pleading as directed. Accordingly, it is

ORDERED that the habeas corpus applications are denied and the action is dismissed without prejudice for failure to file an amended pleading as directed.

DATED at Denver, Colorado, this 28 day of Jan., 2009.

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. 08-cv-01944-BNB

John J. McCarthy
Reg. No. 38051-066
USP - Florence
PO Box 7000
Florence, CO 81226-7000

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on 1/28/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk