

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-02692-BNB

ROGER SCOTT BLACKBURN,

Applicant,

v.

PAROLE OFFICER TRAVIS HADDAWAY, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
JAN -6 2009
GREGORY C. LANGHAM
CLERK

ORDER DIRECTING APPLICANT TO FILE AMENDED PLEADING

Applicant, Roger Scott Blackburn, is a prisoner in the custody of the Colorado Department of Corrections at the Sterling Correctional Facility at Sterling, Colorado. Mr. Blackburn initiated this action by filing *pro se* an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The court must construe the application liberally because Mr. Blackburn is not represented by an attorney. *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 an advocate for a *pro se* litigant. *See Hall*, 935 F.2d at 1110. For the reasons stated below, Mr. Blackburn will be ordered to file an amended pleading.

The court has reviewed the application filed by Mr. Blackburn and finds that it is deficient. The claims Mr. Blackburn raises in this action must be asserted pursuant to 28 U.S.C. § 2241 because those claims call into question the execution, and not the validity, of Mr. Blackburn's sentence. *See Montez v. McKinna*, 208 F.3d 862, 865 (10th

Cir. 2000). More specifically, Mr. Blackburn is challenging an administrative decision revoking his release on parole. He is not challenging the validity of his state court criminal conviction or any sentence imposed by a state court. Therefore, Mr. Blackburn will be directed to file an amended pleading on the proper form if he wishes to pursue his claims challenging the execution of his sentence.

Mr. Blackburn is reminded that he must allege specific facts in support of his claims to demonstrate that his federal constitutional rights have been violated. Naked allegations of constitutional violations are not sufficient to state a habeas corpus claim. **See *Ruark v. Gunter***, 958 F.2d 318, 319 (10th Cir. 1992) (per curiam). Accordingly, it is

ORDERED that Mr. Blackburn file an amended pleading on the proper form **within thirty (30) days from the date of this order.** It is

FURTHER ORDERED that the clerk of the court mail to Mr. Blackburn, 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. § 2241. It is

FURTHER ORDERED that if Mr. Blackburn fails within the time allowed to file an amended pleading as directed, the action will be dismissed without further notice.

DATED January 6, 2009, 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. 08-cv-02692-BNB

Roger Scott Blackburn
Prisoner No. 127949
Sterling Correctional Facility
PO Box 6000
Sterling, CO 80751

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. § 2241 form** to the above-named individuals on 7/6/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk