

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00238-BNB

CLIFFORD N. WOODS,

Applicant,

v.

MR. MIKE ARELLANO, Warden,

Respondent.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

MAR 23 2009

GREGORY C. LANGHAM
CLERK

ORDER DIRECTING APPLICANT TO FILE AMENDED APPLICATION

Applicant, Clifford N. Woods, is a prisoner in the custody of the Colorado Department of Corrections incarcerated at the Arkansas Valley Correctional Facility in Crowley, Colorado. Mr. Woods has filed a *pro se* Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241.

I must construe liberally the Application because Mr. Woods is representing himself. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). I cannot act as a *pro se* litigant's advocate, however. *See Hall*, 935 F.2d at 1110. For the reasons stated below, Mr. Woods is directed to submit an Amended Application.

Although Mr. Woods filed his claims on a Court-approved form used in filing 28 U.S.C. § 2241 claims, he sets forth claims that challenge both the validity of his conviction and sentence, which is the purpose of a 28 U.S.C. § 2254 action, and the execution of those sentences, which is the purpose of a § 2241 action. *See Montez v.*

McKinna, 208 F.3d 862, 865 (10th Cir. 2000).

In Claim One, Mr. Woods contends that his **Miranda** rights were violated and that he was denied a probable cause hearing. He also asserts that his direct appeal is being delayed improperly and his appellate counsel is ineffective. In Claim Two, Mr. Woods asserts that his sentence is illegal because his speedy trial rights were violated. Finally, in Claim Three Mr. Woods asserts that his due process rights were violated because he was denied an evidentiary hearing when his probation was revoked. Claims One and Two more properly are raised in a separate action under 28 U.S.C. § 2254, after exhaustion of state court remedies.

Mr. Woods, therefore, is directed to amend his 28 U.S.C. § 2241 Application and raise only claims that challenge the execution of his sentence.

IT IS ORDERED that Mr. Woods shall file **within thirty days from the date of this Order** an Amended Application that complies with the directives in this Order.

IT IS FURTHER ORDERED that the Clerk of the Court shall mail to Mr. Woods, together with a copy of this Order, one copy of the following form for use in filing the Amended Application: Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241.

IT IS FURTHER ORDERED that if Mr. Woods fails to file an Amended Application within thirty days from the date of this Order the Application will be denied and the action dismissed without further notice.

DATED March 23, 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. 09-cv-00238-BNB

Clifford N. Woods
Prisoner No. 81438
Arkansas Valley Corr. Facility
PO Box 1000 - Unit 5
Crowley, CO 81034

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 9/23/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk