

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00322-BNB

SIDNEY A. POTTS,

Applicant,

v.

J. M. WILNER, Warden, FCI Florence,

Respondent.

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

MAR 10 2009

GREGORY C. LANGHAM  
CLERK

---

ORDER DIRECTING APPLICANT TO FILE AMENDED APPLICATION

---

Applicant, Sidney A. Potts, is a prisoner in the custody of the United States Bureau of Prisons and currently is incarcerated at the Federal Correctional Institution in Florence, Colorado. Mr. Potts has filed a *pro se* Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. The Court must construe the Application liberally because Mr. Potts is a *pro se* litigant. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10<sup>th</sup> Cir. 1991). The Court, however, should not act as a *pro se* litigant's advocate. *See Hall*, 935 F.2d at 1110. For the reasons stated below, Mr. Potts will be ordered to file an Amended Application.

Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts requires that Mr. Potts go beyond notice pleading. *See Blackledge v. Allison*, 431 U.S. 63, 75 n.7 (1977). Naked allegations of constitutional violations devoid of factual support are not cognizable in a federal habeas action. *See Ruark v. Gunter*, 958 F.2d 318, 319 (10<sup>th</sup> Cir. 1992) (per curiam). Mr. Potts must allege on the Court-approved form both the claims he seeks to raise and the specific facts to support each asserted claim.

The Court has reviewed the Application, filed on February 25, 2009, and finds that it is deficient because Mr. Potts fails to assert specific facts in support of the claim that he sets forth on the Court-approved form. The Court is not responsible for reviewing the Petition Mr. Potts submitted to the Court on February 6, 2009, to determine what specific facts he intends to raise in support of his claim. Therefore, Mr. Potts will be ordered to file an Amended Application, in which he identifies on the Court-approved form the specific facts that support his claim. Applicant also must assert, on the form, if and how he has exhausted his state-court remedies with respect to his claim. Accordingly, it is

ORDERED that Mr. Potts file **within thirty days from the date of this Order** an Amended Application that complies with the Order. It is

FURTHER ORDERED that the Clerk of the Court mail to Mr. Potts, 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. Potts fails within the time allowed to file an Amended Application, as directed above, the action will be dismissed without further notice.

DATED March 10, 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-00322-BNB

Sidney A. Potts  
Reg No. 11909-006  
FCI - Florence  
P.O. Box 6000  
Florence, CO 81226-6000

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 3/10/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk