

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00872-BNB

STEPHEN V. HUNT, JR.,

Applicant,

v.

BLAKE R. DAVIS,

Respondent.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JUN 01 2009

GREGORY C. LANGHAM
CLERK

ORDER GRANTING MOTION FOR RECONSIDERATION AND
DIRECTING APPLICANT TO FILE AMENDED APPLICATION

This matter is before the Court on the motion titled "Motion Requesting Reconsideration for Good Cause Shown" that Applicant, Stephen V. Hunt, Jr., submitted to and filed with the Court on May 27, 2009. Mr. Hunt is a prisoner in the custody of the United States Bureau of Prisons who currently is incarcerated at the United States Penitentiary in Florence, Colorado. He filed *pro se* an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. He has been granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915.

On May 15, 2009, Mr. Hunt was ordered to file an amended pleading within thirty days because the Court found that Mr. Hunt appeared to assert civil rights claims attacking the conditions of his confinement, not habeas corpus claims. On May 27, Mr. Hunt filed a motion asking the Court to reconsider the order for an amended pleading.

The Court must construe liberally the motion for reconsideration because Mr. Hunt is a *pro se* litigant. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v.*

Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991). However, a Court should not act as a *pro se* litigant's advocate. **See Hall**, 935 F.2d at 1110. For the reasons stated below, Mr. Hunt's motion will be granted. The May 15, 2009, order for an amended pleading will be vacated. However, Mr. Hunt will be directed to file within thirty days an amended habeas corpus application that only asserts habeas corpus claims.

Mr. Hunt is reminded that "[t]he essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody." **See Preiser v. Rodriguez**, 411 U.S. 475, 484 (1973). He also is reminded that, generally, a prisoner's challenge to his conditions of confinement is cognizable in a civil rights action. **See, e.g., Richards v. Bellmon**, 941 F.2d 1015, 1018 (10th Cir. 1991). Therefore, the claims Mr. Hunt asserts in the amended habeas corpus action must be claims properly asserted in a habeas corpus action.

In addition, the amended application must comply with Rule 10.1 of the Local Rules of Practice for this Court, which requires that all papers filed in cases in this Court be double-spaced and legible. **See D.C.COLO.LCivR 10.1E. and G.** The application and other papers that Mr. Hunt has filed are difficult to read because they are single-spaced and nearly illegible. **See, e.g.**, application at 2. Therefore, the amended application Mr. Hunt will be directed to file, if handwritten, must be double-spaced and written legibly, in capital and lower-case letters, preferably in black ink. Accordingly, it is

ORDERED that the motion titled "Motion Requesting Reconsideration for Good Cause Shown" that Applicant, Stephen V. Hunt, Jr., submitted to and filed with the

Court on May 27, 2009, is granted. It is

FURTHER ORDERED that the May 15, 2009, order for an amended pleading is vacated. It is

FURTHER ORDERED that Applicant is directed to file **within thirty (30) days from the date of this order** an amended application that complies with this order. It is

FURTHER ORDERED that the clerk of the Court mail to Mr. Hunt, together with a copy of this order, two copies of the following form to be used in submitting the amended application: Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241. It is

FURTHER ORDERED that, if Mr. Hunt fails within the time allowed to file an amended application as directed in this order, the application will be denied and the action dismissed without further notice.

DATED June 1, 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

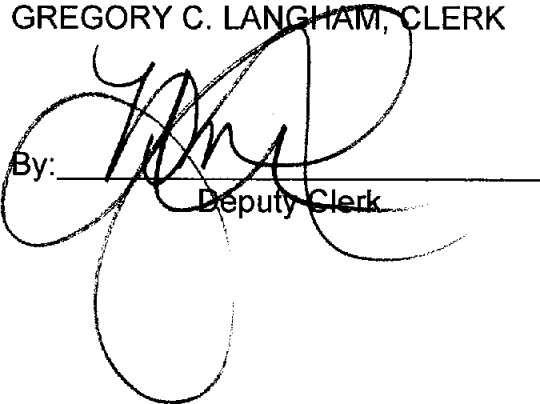
CERTIFICATE OF MAILING

Civil Action No. 09-cv-00872-BNB

Stephen V. Hunt, Jr.,
Reg No. 34155-013
US Penitentiary Florence
P.O. Box 7000
Florence, CO 81226

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** to the above-named individuals on 6/1/09

GREGORY C. LANGHAM, CLERK

By:  Deputy Clerk