

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01399-BNB

ROBERT SCOTT ANDERSON,

Applicant,

v.

HOYT BRILL, (Warden of CCA), and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JUN 22 2009

GREGORY C. LANGHAM
CLERK

ORDER DIRECTING APPLICANT TO FILE AMENDED APPLICATION

Applicant, Robert Scott Anderson, is a prisoner in the custody of the Colorado Department of Corrections at the Kit Carson Correctional Center in Burlington, Colorado. Mr. Anderson has filed *pro se* an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 challenging the validity of his conviction in Jefferson County District Court case number 06CR102.

The court must construe the application liberally because Mr. Anderson 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. Anderson will be ordered to file an amended application if he wishes to pursue his claims in this action.

The court has reviewed the application and finds that it is deficient because Mr. Anderson fails to provide a clear and concise statement of the claims he is raising in

this action. Mr. Anderson asserts two claims for relief. With respect to his first claim, however, he fails to identify the federal right that allegedly was violated in connection with the allegations he makes in that claim. Mr. Anderson alleges only that the trial court abused its discretion in denying his motion to withdraw his guilty plea. Although Mr. Anderson clearly identifies his second claim as a federal constitutional claim, the facts he alleges in support of his second claim are confusing. It is not clear to the court why Mr. Anderson believes he was denied equal protection in connection with the selection of a jury because he alleges that he was convicted pursuant to a guilty plea.

Therefore, if Mr. Anderson wishes to pursue any claims in this action, he must file an amended application in which he clarifies exactly what federal claims he is raising and in which he provides specific factual allegations in support of each asserted claim. Mr. Anderson is advised that § 2254 provides a remedy only for violations of the “Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). Pursuant to Rules 2(c)(1) and 2(c)(2) of the Rules Governing Section 2254 Cases in the United States District Courts, Mr. Anderson must “specify all [available] grounds for relief” and he must “state the facts supporting each ground.” Furthermore, these habeas corpus rules are more demanding than the rules applicable to ordinary civil actions, which require only notice pleading. *See Mayle v. Felix*, 545 U.S. 644, 655 (2005). Naked allegations of constitutional violations are not cognizable under § 2254. *See Ruark v. Gunter*, 958 F.2d 318, 319 (10th Cir. 1992) (per curiam). Accordingly, it is

ORDERED that Mr. Anderson file **within thirty (30) days from the date of this order** an amended habeas corpus application that complies with this order. It is

FURTHER ORDERED that the clerk of the court mail to Mr. Anderson, 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. § 2254. It is

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

DATED June 22, 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-01399-BNB

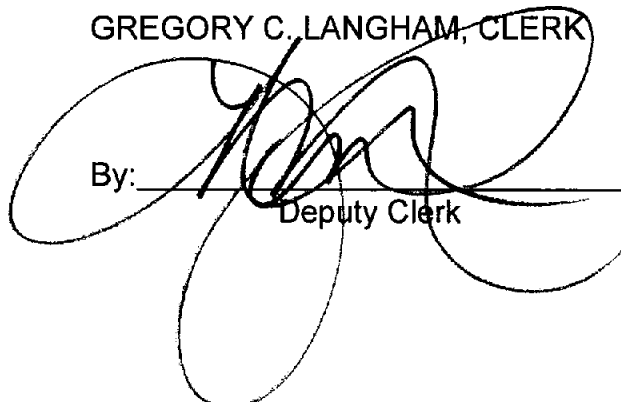
Robert Scott Anderson
Prisoner No. 64213
Kit Carson Corr. Center
PO Box 2000 - Unit BA 109
Burlington, CO 80807

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. § 2254** to the above-named individuals on 0/22/09

GREGORY C. LANGHAM, CLERK

By: _____

Deputy Clerk

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is highly cursive and loops around the line. The text 'GREGORY C. LANGHAM, CLERK' is printed above the signature, and 'Deputy Clerk' is printed below the signature.