

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01712-BNB

JOHN GERALD TRUJILLO,

Applicant,

v.

PAM PLOUGH, Warden, CTCF, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 27 2009

GREGORY C. LANGHAM
CLERK

ORDER

On August 5, 2009, Applicant John Gerald Trujillo filed his *pro se* "Written Objections to Magistrate Judge's Order Directing Petitioner to Amend Petition." Mr. Trujillo is a prisoner in the custody of the Colorado Department of Corrections at Colorado Territorial Correctional Facility. Mr. Trujillo initiated this action by filing a *pro se* Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254.

In an order filed on July 24, 2009, Magistrate Judge Craig B. Shaffer determined that Mr. Trujillo's habeas corpus petition was deficient because he failed to include a statement of the claims he intends to raise in this Court, and because his claims failed to comply with Fed. R. Civ. P. 8(a) and (d)(1). Therefore, Magistrate Judge Shaffer directed Mr. Trujillo to cure these deficiencies if he wished to pursue his claims in this action. In his objections, Mr. Trujillo argues that he requires many additional pages in order to present each of his nine claims in a thorough manner, and that amending his Application will be costly and burdensome to him.

Pursuant to 28 U.S.C. § 636(b)(1)(A) a judge may reconsider any pretrial matter designated to a magistrate judge to hear and determine where it has been shown that the magistrate judge's order is clearly erroneous or contrary to law. The Court has reviewed the file and finds that Magistrate Judge Shaffer's order filed on July 24 is not clearly erroneous or contrary to law.

The Federal Rules of Civil Procedure apply to applications for habeas corpus relief. *See* Fed. R. Civ. P. 81(a)(4); *Browder v. Director, Dep't of Corr.*, 434 U.S. 257, 269 (1978); *Ewing v. Rodgers*, 826 F.2d 967, 969-70 (10th Cir. 1987). Pursuant to Fed. R. Civ. P. 8(a), a pleading must "contain (1) a short and plain statement of the grounds for the court's jurisdiction, . . . (2) a short and plain statement of the claim showing that the pleader is entitled to relief; and (3) a demand for the relief sought" The philosophy of Rule 8(a) is reinforced by Rule 8(d)(1) which provides that "[e]ach allegation must be simple, concise, and direct."

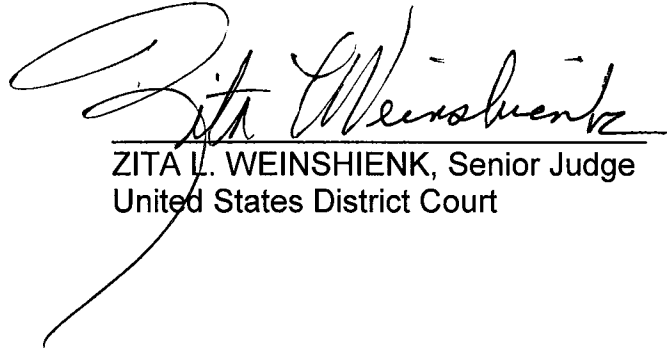
Mr. Trujillo's Application consists of sixty-eight pages of text interspersed with state court orders and other documents. His allegations are not "simple, concise, and direct," and he does not provide a "short and plain statement of [each] claim showing that" he is entitled to relief. Fed. R. Civ. P. (8)(a) & (d)(1). Mr. Trujillo's claims are repetitive and unnecessarily verbose and confusing. Therefore, Mr. Trujillo's objections will be overruled and he will be required to file an Amended Application if he wishes to pursue his claims in this action. Accordingly, it is

ORDERED that "Petitioner's Written Objections to Magistrate Judge's Order Directing Petitioner to Amend Petitioner" filed on August 5, 2009, are overruled. It is

FURTHER ORDERED that Mr. Trujillo shall have **thirty (30) days from the date of this order** to cure the deficiency if he wishes to pursue his claims in this action.

DATED at Denver, Colorado, this 26 day of Aug., 2009.

BY THE COURT:



ZITA L. WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 09-cv-01712-BNB

John Gerald Trujillo
Prisoner No. 109939
CTCF
PO Box 1010
Cañon City, CO 81215- 1010

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 8/27/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk