

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01726-BNB

ROSCOE FORD,

Applicant,

v.

TRAVIS TRANI, Warden, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

SEP 17 2009

GREGORY C. LANGHAM
CLERK

ORDER TO FILE SUPPLEMENTAL PRE-ANSWER RESPONSE

Applicant, Roscoe Ford, is a prisoner in the custody of the Colorado Department of Corrections who currently is incarcerated at the Limon, Colorado, correctional facility. He filed *pro se* an Application for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. He paid the \$5.00 filing fee in a habeas corpus action.

As part of the preliminary consideration of the Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 in this case, the Court determined that a limited pre-answer response was appropriate. Therefore, on July 29, 2009, Respondents were directed, pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts and pursuant to *Denson v. Abbott*, 554 F. Supp. 2d 1206 (D. Colo. 2008), to file a pre-answer response limited to addressing the affirmative defenses of timeliness under 28 U.S.C. § 2244(d) and/or exhaustion of state court remedies under 28 U.S.C. § 2254(b)(1)(A). On August 28, 2009, after being granted an extension of time, Respondents submitted their pre-answer response. On September

14, 2009, Applicant submitted a reply to the pre-answer response.

The Court has reviewed Applicant's reply to the pre-answer response filed on August 28, 2009, and has determined that a supplement to the pre-answer response is required. Respondents are directed to respond to Applicant's motion to amend his tenth claim, contained within the September 14, 2009, reply. In addition, Applicant contends that the application is not a mixed petition, and notes that the Colorado Supreme Court on March 2, 2009, denied his petition for certiorari review. Given this information, Respondents are directed to brief the Court further on the application of the rules governing exhaustion and procedural default as they relate to Applicant's asserted claims. Accordingly, it is

ORDERED that **within twenty days from the date of this order** Respondents shall file a supplement to the pre-answer response that complies with this order. It is

FURTHER ORDERED that Applicant will be allowed twenty days from the date the supplemental pre-answer response is filed to file a supplemental reply.

DATED September 17, 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-01726-BNB

Roscoe Ford
Prisoner No. 102087
Limon Correctional Facility
49030 State Hwy. 71
Limon, CO 80826

Patricia Van Horn
Assistant Attorney General
DELIVERED ELECTRONICALLY

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 9/17/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk