

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-01833-BNB

JASPER L. GARCIA,

Applicant,

v.

SUSAN JONES,
ARISTEDES ZAVARAS, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

AUG 07 2009

GREGORY C. LANGHAM
CLERK

ORDER DIRECTING APPLICANT TO FILE AMENDED APPLICATION

Applicant, Jasper I. Garcia, is a prisoner in the custody of the Colorado Department of Corrections, who currently is incarcerated at the Centennial Correctional Facility in Cañon City, Colorado. Mr. Garcia has filed a *pro se* Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. The Court must construe the Application liberally because Mr. Garcia 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). 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. Garcia 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. Garcia 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 (10th Cir. 1992) (per curiam). Mr. Garcia 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 submitted to the Court on August 3, 2009, and finds that it is deficient. Mr. Garcia fails to assert on Pages Five and Six a statement of the claims he intends to raise in this Court.

The Court will not review any attached documents submitted by Mr. Garcia to determine what claims and specific facts he intends to raise in the instant action. Therefore, Mr. Garcia must file an Amended Application in which he identifies, **on the Court-approved form**, all the specific claims for relief that he is asserting, and in which he provides specific facts in support of each asserted claim. Accordingly, it is

ORDERED that Mr. Garcia 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. Garcia, 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. Garcia fails within the time allowed to file an Amended Application, as directed above, the action will be dismissed without further notice.

DATED August 7, 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-01833-BNB

Jasper L. Garcia
Prisoner No. 122411
Centennial Corr. Center
P.O. Box 600
Cañon City, CO 81215-0600

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 8/7/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk