

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02008-BNB

DAVID JAMES HANSON,

Applicant,

v.

ARISTEDES W. ZAVARAS, 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 DIRECTING APPLICANT TO FILE AMENDED APPLICATION

Applicant, David James Hanson, is a prisoner in the custody of the Colorado Department of Corrections, who currently is incarcerated at the Fremont Correctional Facility in Cañon City, Colorado. Mr. Hanson, acting *pro se*, has filed an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254.

The Court must construe the Application liberally because Mr. Hanson is representing himself. *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. Hanson is directed to submit an Amended Application.

Mr. Hanson filed his claims on a Court-approved form that is used in filing claims under 28 U.S.C. § 2254. He asserts claims that challenge both the validity of his conviction and sentence, cognizable under 28 U.S.C. § 2254 action, and the execution of that sentence, cognizable under 28 U.S.C. § 2241. *See Montez v. McKinna*, 208 F.3d 862, 865 (10th Cir. 2000).

In Claim One, Mr. Hanson contends that his plea agreement is void. In Claim Four, Mr. Hanson challenges the jurisdiction of the state court to decide his criminal proceeding. In Claims Two and Three, Mr. Hanson challenges his parole proceedings. Claims Two and Three must be raised in a separate action under 28 U.S.C. § 2241 after exhaustion of state court remedies. Mr. Hanson, therefore, is directed to amend his Application to raise only those claims that challenge the validity of his conviction under 28 U.S.C. § 2254 . Accordingly, it is

ORDERED that Mr. Hanson file **within thirty days from the date of this Order** an Amended Application that complies with the directives in this Order. It is

FURTHER ORDERED that the Clerk of the Court mail to Mr. Hanson, together with a copy of this Order, one copy of the following form for use in filing the Amended Application: Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. It is

FURTHER ORDERED that if Mr. Hanson fails to file an Amended Application within thirty days from the date of this Order the Court will proceed with consideration of only the § 2254 claims as presented in the original Application.

DATED August 27, 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-02008-BNB

David James Hanson
Prisoner No. 134186
Fremont Corr. Facility
P.O. Box 999
Cañon City, CO 81215-0999

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 8/20/09

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk