

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-03000-BNB

SCOTT FIRTH,

Applicant,

v.

RICHARD SMELSER, and  
THE ATTORNEY GENERAL OF THE STATE OF COLORADO JOHN W. SUTHERS,  
Respondents.

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

FEB 10 2010

GREGORY C. LANGHAM  
CLERK

---

ORDER DENYING MOTION

---

This matter is before the Court on the motion titled "Motion to Amend Scott Firth's Name," submitted to and filed with the Court on February 5, 2010. In the motion, Mr. Firth asks the Court to change his name in the instant habeas corpus action to "John Doe" and to direct the Colorado Court of Appeals to do likewise in *People v. Firth*, 205 P.3d 445 (Colo. Ct. App. 2008), *aff'd*, No. 08SC834 (Apr. 13, 2009). In *Firth*, Mr. Firth appealed from the trial court order denying his motion for postconviction relief pursuant to Rule 35(c) of the Colorado Rules of Criminal Procedure following the revocation of his probation and his sentence to an indeterminate term of six years to life in the Colorado Department of Corrections. *Id.* at 447.

According to *Firth*, Mr. Firth was charged with three counts of aggravated incest for having sexually molested his daughter from the time she was nine years old until she was seventeen. *Id.* at 447. Pursuant to a plea agreement, he pled guilty to sexual assault on a child fifteen to seventeen years old by one in a position of trust, and was

sentenced to sixty days in jail followed by probation for a term of ten years to life. *Id.* In the motion before this Court, Mr. Firth contends that he seeks to change his name in the instant action to protect the victim of his underlying sex offense and her sister. He also contends that his initials are the same as the victim's, thereby exposing the victim to further victimization if her initials are used.

The motion will be denied. Mr. Firth's name already has been made public in *Firth*. This Court knows of no authority to direct the state appeals court to change Mr. Firth's name in a published case, and Mr. Firth fails to cite any. In addition, Respondents have not yet been ordered to file a pre-answer response or answer. Therefore, Respondents have not yet submitted any documents containing a reference to the victim by initials. Accordingly, it is

ORDERED that the motion titled "Motion to Amend Scott Firth's Name" is denied.

DATED February 10, 2010, 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-03000-BNB

Scott Firth  
Prisoner No. 121488  
Crowley County Corr. Facility  
6564 State Hwy. 96  
Olney Springs, CO 81062-8700

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 2/10/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk