

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

Civil Action No. 10-cv-02458-BNB

TED ROBERT JONES,

Applicant,

DEC -8 2010

GREGORY C. LANGHAM
CLERK

v.

MESA COUNTY COURTS, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

ORDER OF DISMISSAL

Applicant, Ted Robert Jones, initiated this action by filing *pro se* an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the validity of his conviction in case number 08MH150 in the District Court in Mesa County, Colorado. In an order filed on October 8, 2010, Magistrate Judge Boyd N. Boland ordered Mr. Jones to cure certain deficiencies, including Mr. Jones' failure to use the proper form. On October 22, 2010, Mr. Jones filed an amended application for a writ of habeas corpus that consisted of only two pages of the Court's 28 U.S.C. § 2254 habeas corpus application form and did not include any claims for relief. Mr. Jones also listed different case numbers for the convictions under attack in the amended application, although the new case numbers apparently still relate to cases in the Mesa County District Court.

Magistrate Judge Boland reviewed the amended application and determined that it was deficient both because Mr. Jones named an improper Respondent and because it was not clear what claims he was asserting and what convictions he was challenging.

Therefore, Magistrate Judge Boland ordered Mr. Jones to file a second amended application naming the proper Respondents and identifying clearly the convictions under attack as well as the specific claims for relief he is asserting. Magistrate Judge Boland specifically advised Mr. Jones that § 2254 provides a remedy only for violations of the “Constitution or laws or treaties of the United States,” 28 U.S.C. § 2254(a), and that, pursuant to Rules 2(c)(1) and 2(c)(2) of the Rules Governing Section 2254 Cases in the United States District Courts, he must “specify all [available] grounds for relief” and he must “state the facts supporting each ground.” Magistrate Judge Boland also advised Mr. Jones that the action would be dismissed without further notice if he failed to file a second amended application within thirty days.

On November 22, 2010, Mr. Jones filed two documents. In the first (doc. #8), Mr. Jones seeks an emergency injunction and dismissal of all of his Delta County cases that are the subject of a separate habeas corpus action, **see Jones v. Miller**, No. 10-cv-02455-BNB (D. Colo. filed Oct. 8, 2010), in order to prevent malicious prosecution in his Mesa County cases. He also seeks an injunction and dismissal of his Mesa County cases. Mr. Jones includes within the attachments to his request for an emergency injunction three pages from the Court’s 28 U.S.C. § 2254 habeas corpus application form. (**See Doc. #8 at pp.12-14.**) Mr. Jones lists three claims for relief on two of those pages, but he fails to provide a clear statement of any claim that specifies the constitutional right allegedly violated and he fails to allege specific facts in support of his claims. The confusion surrounding the claims Mr. Jones is asserting is exacerbated by the fact that he filed the identical document with the same claims in his other pending habeas corpus case challenging different convictions. In the second document filed on

November 22 (doc. #9), Mr. Jones makes conclusory statements that his rights have been violated, and he argues that he remains in the custody of Respondent Mesa County Courts because he has to comply with the terms of his probation. On November 23, 2010, Mr. Jones filed another document that also is not a second amended application.

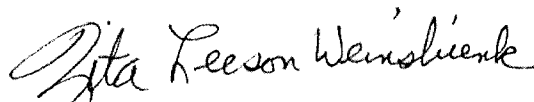
The Court finds that Mr. Jones has failed within the time allowed to file a second amended application that provides a clear statement of any constitutional claims in this habeas corpus action. Therefore, the action will be dismissed without prejudice for failure to file a second amended application as directed. Accordingly, it is

ORDERED that the application and the amended application are denied and the action is dismissed without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Applicant failed to comply with a court order. It is

FURTHER ORDERED that no certificate of appealability will issue because Applicant has not made a substantial showing of the denial of a constitutional right.

DATED at Denver, Colorado, this 7th day of December, 2010.

BY THE COURT:



ZITA LEESON WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 10-cv-02458-BNB

Ted Robert Jones
795 County Road 326
Silt, CO 81652

I hereby certify that I have mailed a copy of the **ORDER AND JUDGMENT** to the above-named individuals on December 8, 2010

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk