

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

AUG 11 2011

Civil Action No. 11-cv-01634-BNB

GREGORY C. LANGHAM
CLERK

EARL JOSEPH LOOSE, a.k.a. EARL JOSEPH CROWNHART,

Applicant,

v.

DANIEL C. KOGOUSEK, and
JOHN SUTHERS, The Attorney General of the State of Colorado,

Respondents.

ORDER DIRECTING APPLICANT TO FILE AMENDED APPLICATION

Applicant, Earl Joseph Loose, a.k.a. Earl Joseph Crownhart, currently is placed at the Colorado Mental Health Institute at Pueblo, Colorado. Mr. Crownhart, acting *pro se*, initiated this action by filing an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254. He then filed three additional applications and raised different claims or attached different exhibits in each of the applications. On July 28, 2011, the Court instructed Mr. Crownhart to file one Amended Application that includes all claims that he seeks to raise. On August 5, 2011, Mr. Crownhart filed what appears to be an Amended Application.

The Court must construe the Application liberally because Mr. Crownhart 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. Crownhart will be ordered to file a Second and Final Amended Application.

The Application Mr. Crownhart submitted to the Court on August 5 is deficient. First, the Application is illegible. Second, to the extent the Court is able to read the claims Mr. Crownhart asserts on Page Five and Six, they are unintelligible.

The Second and Final Amended Application must comply with Rule 8 of the Federal Rules of Civil Procedure. The Federal Rules of Civil Procedure apply to applications for habeas corpus relief. See Fed. R. Civ. P. 81(a)(2); *Browder v. Director, Dep't of Corrections*, 434 U.S. 257, 269 (1978); *Ewing v. Rodgers*, 826 F.2d 967, 969-70 (10th Cir. 1987). Pursuant to Fed. R. Civ. P. 8(a), a pleading “must contain (1) a short and plain statement of the grounds for the court’s jurisdiction, . . . (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for the relief sought.” Fed. R. Civ. P. 8(d)(1) provides that “[e]ach allegation must be simple, concise, and direct.” Taken together, Rules 8(a) and (d)(1) underscore the emphasis placed on clarity and brevity by the federal pleading rules. Prolix, vague, or unintelligible pleadings violate the requirements of Rule 8.

Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts requires that Mr. Crownhart 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. Crownhart must allege both the claims he seeks to raise and the specific facts to support each asserted claim. Accordingly, it is

ORDERED that **within thirty days from the date of this Order** Mr. Crownhart file a Second and Final Amended Application that complies with this Order. It is

FURTHER ORDERED that the Clerk of the Court mail to Mr. Crownhart, together with a copy of this Order, two copies 28 U.S.C. § 2254 Court-approved form for use in filing the Second and Final Amended Application. Only one of the copies is to be completed and submitted to the Court. It is

FURTHER ORDERED that if Mr. Crownhart fails within the time allowed to file a Second and Final Amended Application as directed, the action will be dismissed without further notice.

DATED August 11, 2011, 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. 11-cv-01634-BNB

Earl Joseph Loose
Prisoner No. 113771
Colorado Mental Health Institute at Pueblo
1600 W. 24th St.
Pueblo, CO 81003

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on August 11, 2011.

GREGORY C. LANGHAM, CLERK

By: _____



Deputy Clerk