

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-02379-BNB

DWAUNE GRAVLEY,

Applicant,

v.

HON. D. BERKIBILE,

Respondent.

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ORDER OVERRULING OBJECTION

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This matter is before the Court on the motion titled "Motion to Reconsider" (ECF No. 7) filed *pro se* on September 16, 2013, by Applicant, Dwaune Gravley. Mr. Gravley is a prisoner in the custody of the Federal Bureau of Prisons who currently is incarcerated at the United States Penitentiary, Administrative Maximum, in Florence, Colorado.

In the motion to reconsider, Mr. Gravley objects to Magistrate Judge Boyd N. Boland's order of September 5, 2013 (ECF No. 4), directing him to file an amended application that complied with the pleading requirements of Rule 8 of the Federal Rules of Civil Procedure and with Rules 2(c)(1) and 2(c)(2) of the Rules Governing Section 2254 Cases in the United States District Courts.

The Court must construe liberally the September 16 objection because Mr. Gravley is not represented by an attorney. See *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). However, the Court

should not be an advocate for a *pro se* litigant. See *Hall*, 935 F.2d at 1110. For the reasons stated below, the motion to reconsider will be treated as an objection, and will be overruled.

Pursuant to 28 U.S.C. § 636(b)(1)(A) a judge may reconsider any pretrial matter designated to a magistrate judge to hear and determine where it has been shown that the magistrate judge's order is clearly erroneous or contrary to law. The Court has reviewed the file and finds that Magistrate Judge Boland's September 5 order is not clearly erroneous or contrary to law. Moreover, the objection is moot because Mr. Gravley filed the amended application on September 13, 2013. See ECF No. 5. Therefore, the objection will be overruled.

Accordingly, it is

ORDERED that the motion titled "Motion to Reconsider" (ECF No. 7) filed *pro se* on September 16, 2013, by Applicant, Dwaune Gravley, and which the Court has construed liberally as an objection pursuant to 28 U.S.C. § 636(b)(1)(A), is overruled.

DATED at Denver, Colorado, this 18<sup>th</sup> day of September, 2013.

BY THE COURT:

s/Lewis T. Babcock  
LEWIS T. BABCOCK, Senior Judge  
United States District Court