

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00250-GPG

CROSBY LINCOLN POWELL,

Applicant,

v.

ARAPAHOE COUNTY DISTRICT COURT,
STATE OF COLORADO, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

ORDER DIRECTING APPLICANT TO FILE AMENDED APPLICATION

Applicant, Crosby Lincoln Powell, is a prisoner in the custody of the Federal Bureau of Prisons at a federal prison in California. Mr. Powell has filed *pro se* an Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (ECF No. 1). The court must construe the application liberally because Mr. Powell 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.

Mr. Powell indicates in the application that he is challenging the validity of his conviction in Arapahoe County, Colorado, District Court case number 06CR2664. However, the application is deficient because Mr. Powell does not assert any claims for relief. Although the court must construe the application liberally, “the court cannot take on the responsibility of serving as the litigant’s attorney in constructing arguments and

searching the record.” *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005). Therefore, Mr. Powell will be ordered to file an amended application if he wishes to pursue any claims in this action.

Mr. Powell is advised that habeas corpus relief is warranted only if he “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). Pursuant to Rules 2(c)(1) and 2(c)(2) of the Rules Governing Section 2254 Cases in the United States District Courts, Mr. Powell must identify the specific federal constitutional right allegedly violated in each claim he is asserting and he must provide specific factual allegations in support of each asserted claim. These habeas corpus rules are more demanding than the rules applicable to ordinary civil actions, which require only notice pleading. *See Mayle v. Felix*, 545 U.S. 644, 655 (2005). “A prime purpose of Rule 2(c)’s demand that habeas petitioners plead with particularity is to assist the district court in determining whether the State should be ordered to ‘show cause why the writ should not be granted.’” *Id.* at 656 (quoting 28 U.S.C. § 2243). Naked allegations of constitutional violations are not cognizable in a habeas corpus action. *See Ruark v. Gunter*, 958 F.2d 318, 319 (10th Cir. 1992) (per curiam). Accordingly, it is

ORDERED that, **within thirty (30) days from the date of this order**, Mr. Powell file an amended application that provides a clear statement of the federal constitutional claims he is asserting. It is

FURTHER ORDERED that Mr. Powell shall obtain the appropriate, court-approved Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 form (with the assistance of his case manager or the facility’s legal assistant), along with the

applicable instructions, at www.cod.uscourts.gov. It is

FURTHER ORDERED that, if Mr. Powell fails within the time allowed to file an amended application that complies with this order, the action will be dismissed without further notice.

DATED February 10, 2015, at Denver, Colorado.

BY THE COURT:

S/ Gordon P. Gallagher

United States Magistrate Judge