

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

JOSEPH BOND,
Petitioner,

vs.

Case No. 5:09cv255/SPM/EMT

WALTER A. McNEIL,
Respondent.

ORDER

This cause is before the court on Petitioner's petition for writ of habeas corpus (Doc. 1). He also filed a motion for leave to proceed in forma pauperis (Doc. 7), which shall be granted.

Initially, the court notes that Petitioner has not named the proper party as Respondent. Pursuant to 28 U.S.C. § 2242, the appropriate Respondent is the person who has custody over Petitioner. Therefore, Walter A. McNeil, Secretary of the Florida Department of Corrections, shall be substituted as Respondent, as the court has already done in the caption of this order.

Additionally, Petitioner failed to use the court-approved form for filing his habeas petition. Local Rule 5.1(J) for the Northern District of Florida states that the court will not accept for consideration an application for writ of habeas corpus under section 2254 unless the appropriate petition form is properly completed and filed. Thus, Petitioner must file an amended petition on the form for use in section 2254 cases. Petitioner is advised that the amended petition must contain all of his allegations, and it should not in any way refer to the original petition. Once an amended petition is filed, all earlier petitions are disregarded. Local Rule 15.1, Northern District of Florida. Finally, Petitioner must submit a complete copy of the petition for each named Respondent and the Attorney General of the State of Florida. Therefore, Petitioner must submit two (2) complete copies of the amended petition, including attachments.

Accordingly, it is **ORDERED**:

1. Petitioner's motion to proceed in forma pauperis (Doc. 7) is **GRANTED**.
2. Walter A. McNeil is hereby substituted for the State of Florida as Respondent in this cause, and the Clerk shall change the docket to so reflect. Additionally, the clerk is directed to send Petitioner a petition form for use in section 2254 cases with this case number written on the form.
3. Petitioner shall have **THIRTY (30) DAYS** from the date of docketing of this order in which to file an amended habeas petition, which shall be typed or clearly written, submitted on the court form, and marked "Amended Petition." Additionally, Petitioner shall provide two (2) service copies of the amended petition.
4. Failure to respond to this order will result in a recommendation that this case be dismissed for failure to comply with an order of the court.

DONE AND ORDERED this 12th day of August 2009.

/s/ Elizabeth M. Timothy

ELIZABETH M. TIMOTHY

UNITED STATES MAGISTRATE JUDGE