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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROGER DAVIS,

Petitioner,

vs.

BRIAN E. WILLIAMS, *et al.*,

Respondents.

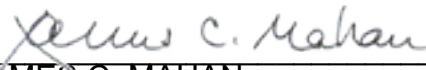
2:10-cv-00603-JCM-LRL

ORDER

In this habeas matter, the court’s accounting records, but not the docket sheet, reflect that the filing fee has been paid. However, petitioner has commenced a second habeas action with a more detailed and compliant petition challenging the same conviction, which has been served for a response. It thus appears that petitioner has elected to pursue another petition in lieu of the present one, which was deficient because petitioner sought to incorporate a memorandum rather than state his claims in the petition itself. It would appear on initial review that the second petition also was filed within the federal limitation period.

IT THEREFORE IS ORDERED that this action shall be DISMISSED without prejudice. The clerk of court shall enter final judgment accordingly, dismissing this action without prejudice.

DATED: February 4, 2011.



JAMES C. MAHAN
United States District Judge