

1
2
3
4
5
6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
8

9 CHARLES ROBINS,

10 Petitioner,

11 vs.

12 TIMOTHY FILSON, *et al.*,

13 Respondents.
14

)
)
) Case No. 2:99-cv-00412-LRH-PAL
)
)
)

ORDER

15 In this federal habeas action challenging petitioner's first degree murder conviction and death
16 sentence, petitioner has filed a motion seeking an order to administratively close these proceedings.
17 ECF No. 310. Attached to the motion are a "Memorandum of Agreement" and an "Amended
18 Judgment of Conviction," which demonstrate that petitioner's first-degree murder conviction and
19 death sentence have been vacated and replaced with a judgment for second-degree murder with a
20 corresponding twenty-five year sentence. *Id.*, Exhibits A and B. Petitioner has been given credit for
21 time served and released from custody, but under the terms of his agreement with the State of
22 Nevada, his first-degree murder conviction and death sentence would be reinstated if he should later
23 challenge the amended judgment of conviction.

24 Petitioner indicates that he is proposing administrative closure, in lieu of outright dismissal of
25 this case, because there may be "procedural obstacles" to bringing a federal habeas proceeding in the
26 event his first degree murder conviction is ever reinstated. As alternative relief, petitioner asks for a

1 dismissal order that provides for reinstatement of this proceeding *nunc pro tunc* should the original
2 conviction be restored.


3 Because the conviction and sentence challenged in this proceeding have been vacated, the
4 habeas petition herein is now moot and must be dismissed. *See Calderon v. Moore*, 518 U.S. 149,
5 150 (1996) (habeas proceeding must be dismissed as moot when a court cannot grant “any effectual
6 relief whatever”). Accordingly, the court declines to “administratively close” this proceeding. As
7 for entering a provisional or conditional dismissal, the court notes that the petitioner, alone, controls
8 whether the original conviction is ever reinstated. Thus, this court does not see the need to include
9 protective measures as part of its dismissal of this case.

10 **IT IS THEREFORE ORDERED** that petitioner’s fourth amended petition (ECF No. 289)
11 is DISMISSED as moot. The Clerk shall enter judgment accordingly and close this case.

12 **IT IS FURTHER ORDERED** petitioner’s “motion for administrative closure of
13 proceedings” (ECF No. 310) is DENIED.

14 **IT IS FURTHER ORDERED** that a certificate of appealability is DENIED.

15 DATED this 14th day of August, 2017.

16
17 
18 LARRY R. HICKS
19 UNITED STATES DISTRICT JUDGE
20
21
22
23
24
25
26