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15UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

LAURA BADILLO CAMACHO,

Petitioner,

v.

STATE OF NEVADA,

Respondent.

Case No. 2:12-cv-01834-MMD-CWH

ORDER

Petitioner Laura Badillo Camacho has filed a *pro se* petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254 (dkt. no. 1-1). On November 2, 2012, the Court directed petitioner to file an amended caption page within thirty (30) days that named the state officer who has custody of her as a respondent. This person typically is the warden of the facility in which the petitioner is incarcerated. Rule 2(a), Rules Governing Section 2254 Proceedings; *Stanley v. California Supreme Court*, 21 F.3d 359, 360 (9th Cir.1994). “Failure to name the petitioner’s custodian as a respondent deprives federal courts of personal jurisdiction.” *Stanley*, 21 F.3d at 360. The order was served on petitioner at her address of record.

More than the allotted time has passed, and petitioner has failed to file an amended caption page, or to respond to that portion of the Court’s order in any manner. Accordingly, this action is dismissed without prejudice for lack of personal jurisdiction. It does not appear from the papers presented that a dismissal without prejudice will

1 materially affect a later analysis of any timeliness issue with regard to a promptly filed
2 new action.¹


3 IT IS THEREFORE ORDERED that this action is DISMISSED without prejudice
4 for lack of personal jurisdiction.

5 IT IS FURTHER ORDERED that the following motions are DENIED as moot:
6 motion for appointment of counsel (dkt. no. 2); application to proceed *in forma pauperis*
7 (dkt. no. 4); application to proceed *in forma pauperis* (dkt. no. 5); *ex parte* motion for
8 appointment of counsel (dkt. no. 6).

9 IT IS FURTHER ORDERED that a certificate of appealability is DENIED, as
10 jurists of reason would not find the Court's dismissal of this improperly commenced
11 action without prejudice to be debatable or incorrect.

12 IT IS FURTHER ORDERED that the Clerk shall ENTER JUDGMENT accordingly
13 and close this case.

14 DATED THIS 11th day of February 2013.

15 
16 _____
17 MIRANDA M. DU
18 UNITED STATES DISTRICT JUDGE

19 _____
20 ¹With regard to timeliness, in this petition, petitioner states that she is challenging
21 a judgment of conviction dated November 29, 2009 (dkt. no. 1-1). The papers on file
22 and the online docket records of the Nevada Supreme Court reflect that the Nevada
23 Supreme Court affirmed the state district court's denial of petitioner's state
24 postconviction petition for writ of habeas corpus on April 11, 2012, as untimely (Case
25 No.59207, remittitur issued May 8, 2012).

26 From the foregoing it would appear that the federal limitation period on any
27 challenge to the judgment of conviction and sentence, unless otherwise tolled, has
28 expired. It does not appear from the available records that the federal limitations period
necessarily has expired as to any exhausted federal constitutional claim challenging the
computation of petitioner's sentence. From the foregoing procedural history, it thus
does not appear that a dismissal of the present petition without prejudice will materially
affect an analysis of any timeliness or exhaustion issue as to a promptly filed later
petition. Nor does it appear from the available records that a dismissal of this
improperly commenced action without prejudice necessarily will be with prejudice in
effect. Petitioner at all times remains responsible for properly exhausting his claims, for
calculating the running of the federal limitation period as applied to her case, and for
properly commencing a timely-filed federal habeas action.