

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

PERCY LAVAE BACON, )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 BRIAN WILLIAMS, *et al.*, )  
 )  
 Respondents. )  
 /

2:13-cv-00717-JCM-CWH

**ORDER**

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner.

Petitioner has submitted a habeas petition and seeks leave to proceed *in forma pauperis*. (ECF No. 1). In addition to filing the proper affidavit of inability to pay filing fees, a prisoner seeking to proceed *in forma pauperis* “shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint . . . obtained from the appropriate official of each prison at which the prisoner is or was confined.” 28 U.S.C. § 1915(a)(1), (2). Petitioner in the instant action has failed to submit an *in forma pauperis* application that provides the necessary financial information and includes a financial certificate signed by an authorized prison or jail officer. It does not appear from

1 the papers presented that a dismissal without prejudice would result in a promptly-filed new petition  
2 being untimely. In this regard, petitioner at all times remains responsible for calculating the running  
3 of the federal limitation period as applied to his case, properly commencing a timely-filed federal  
4 habeas action, and properly exhausting his claims in the state courts.

5 **IT IS THEREFORE ORDERED** that this action is **DISMISSED WITHOUT**  
6 **PREJUDICE** to the filing of a new petition in a new action, with a proper *in forma pauperis*  
7 application in compliance with 28 U.S.C. § 1915(a).


8 **IT FURTHER IS ORDERED** that the clerk of the court shall send petitioner two copies of  
9 an *in forma pauperis* application form for a prisoner, one copy of the instructions for same, two  
10 copies of a blank 28 U.S.C. § 2254 habeas corpus form, one copy of instructions for the same, and a  
11 copy of the petition (ECF No. 1-1) in this action.

12 **IT IS FURTHER ORDERED** that petitioner may file a new petition and *in forma pauperis*  
13 application in a new action, but he may not file further documents in this action.

14 **IT IS FURTHER ORDERED** that the clerk of the court shall enter judgment accordingly.

15 **IT IS FURTHER ORDERED** that petitioner is denied a certificate of appealability.

16 Dated May 2, 2013.

17  
18   
19  
20  
21  
22  
23  
24  
25  
26  
UNITED STATES DISTRICT JUDGE