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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JUAN M. ALCARAZ,

Petitioner,

vs.

BRIAN WILLIAMS, *et al.*,

Respondents.

Case No. 2:13-cv-00818-JCM-PAL

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. On May 30, 2013, this court denied petitioner’s application for leave to proceed *in forma pauperis* and directed petitioner to pay the \$5.00 filing fee to the clerk of court within thirty days. (ECF No. 3). Because it appeared that petitioner failed to obey the court’s order to pay the filing fee, this action was dismissed without prejudice by order filed July 15, 2013. (ECF No. 4). The order further stated that the petition was untimely based on incomplete information contained in the petition, a conclusion that the court now retracts.

Petitioner filed a motion for reconsideration of the dismissal of this action. (ECF No. 6). In his motion, petitioner explains that on June 13, 2013, he submitted to prison officials an inmate accounting transaction request form, in which he asked that \$5.00 be taken from his prison account and sent to the clerk of court. Petitioner attached the inmate account transaction request form to his motion, which indicates that petitioner did timely request prison officials to withdraw \$5.00 from

1 his account and send to the clerk of court. (ECF No. 6, at Exhibit 2). The court's docket does not
2 reflect receipt of the \$5.00 filing fee. Nevertheless, because it appears that petitioner made a good
3 faith attempt to pay the filing fee as ordered by this court, petitioner's motion for reconsideration is
4 granted. The order of dismissal shall be vacated and this action shall be reopened. Respondents
5 shall respond to the petition, as set forth below.

6 **IT IS THEREFORE ORDERED** that petitioner's motion for reconsideration (ECF No. 6)
7 is **GRANTED**.

8 **IT IS FURTHER ORDERED** that the court's order of July 15, 2013 (ECF No. 4) is
9 **VACATED**.

10 **IT IS FURTHER ORDERED** that the clerk shall **FILE and ELECTRONICALLY**
11 **SERVE** the petition upon the respondents.


12 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from entry
13 of this order within which to answer, or otherwise respond to, the petition. In their answer or other
14 response, respondents shall address all claims presented in the petition. Respondents shall raise all
15 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and
16 procedural default. **Successive motions to dismiss will not be entertained**. If an answer is filed,
17 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in
18 the United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have
19 **forty-five (45) days** from the date of service of the answer to file a reply.

20 **IT IS FURTHER ORDERED** that any state court record exhibits filed by respondents shall
21 be filed with a separate index of exhibits identifying the exhibits by number or letter. The hard copy
22 of all state court record exhibits shall be forwarded, for this case, to the staff attorneys in the **Reno**
23 division of the clerk of court.

24 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the attorney
25 general of the state of Nevada a copy of every pleading, motion, or other document he submits for
26 consideration by the court. Petitioner shall include with the original paper submitted for filing a
27 certificate stating the date that a true and correct copy of the document was mailed to the attorney
28 general. The court may disregard any paper that does not include a certificate of service. After

1 respondents appear in this action, petitioner shall make such service upon the particular deputy
2 attorney general assigned to the case.

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4 Dated May 16, 2014.

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7 UNITED STATES DISTRICT JUDGE
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