



1 court regarding that claim rested on a state-law ground that is independent of the federal question  
2 and adequate to support the judgment:

3 In all cases in which a state prisoner has defaulted his federal claims in state court  
4 pursuant to an independent and adequate state procedural rule, federal habeas review  
5 of the claims is barred unless the prisoner can demonstrate cause for the default and  
6 actual prejudice as a result of the alleged violation of federal law, or demonstrate that  
7 failure to consider the claims will result in a fundamental miscarriage of justice.

8 *Coleman v. Thompson*, 501 U.S. 722, 730-31, 750 (1991); *see also Murray v. Carrier*, 477 U.S.  
9 478, 485 (1986). The ground for dismissal upon which the Nevada Supreme Court relied in this  
10 case is an adequate and independent state rule. *Vang v. Nevada*, 329 F.3d 1069, 1074 (9th Cir.  
11 2003).

12 Petitioner has not filed an opposition to the motion to dismiss (#13), and his motion to file a  
13 first amended petition (#25) does not address respondents' arguments regarding this procedural  
14 default. The court concludes that petitioner has consented to the finding that ground 13 is  
15 procedurally defaulted. *See* LR 7-2(d). Petitioner realleges ground 13 in the proposed amended  
16 petition. The court dismisses this ground.

17 The court dismissed ground 3 of the petition (#9) because it was redundant to grounds 7 and  
18 8. Order at 1 (#8). Petitioner realleges ground 3 in the proposed amended petition without  
19 explanation. The court dismisses this ground again.

### 18 Conclusion

19 IT IS THEREFORE ORDERED that petitioner's motion to file a first amended petition  
20 (#25) is **GRANTED**. The clerk of the court shall file the amended petition (#25-1) that is  
21 currently attached to the motion as an exhibit;

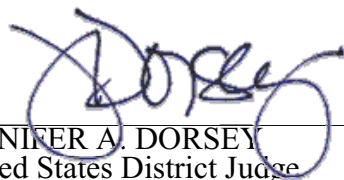
22 IT IS FURTHER ORDERED that respondents' motion to dismiss (#13) is **GRANTED**.  
23 **Grounds 2, 6, and 14 of the amended petition are DISMISSED** because they are unexhausted.  
24 **Ground 13 of the amended petition is DISMISSED with prejudice** because it is procedurally  
25 defaulted.

26 IT IS FURTHER ORDERED that **ground 3 of the amended petition is DISMISSED**  
27 because it is redundant of grounds 7 and 8 of the amended petition.

28 IT IS FURTHER ORDERED that **respondents have until May 1, 2015, to file and serve**

1 **an answer** that complies with Rule 5 of the Rules Governing Section 2254 Cases in the United  
2 States District Courts. **Petitioner shall have 45 days from the date on which the answer is**  
3 **served to file a reply.**

4 DATED March 18, 2015

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7 JENNIFER A. DORSEY  
United States District Judge

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