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## ORDER

Petitioner has submitted a motion for reconsideration (#11) of the court's dismissal of ground 6. Ground 6 was a claim that petitioner's conviction for trafficking in a schedule I controlled substance was invalid because the controlled substance at issue, cocaine, is a schedule II controlled substance. The court dismissed the ground because, under Nevada law, cocaine is a schedule I controlled substance. Petitioner now contends that the regulations placing cocaine in Nevada's schedule I violate the doctrine of separation of powers. Petitioner is confusing federal law and state law. Congress has defined cocaine as a schedule II controlled substance for the purposes

1 of federal law. However, petitioner was convicted of a violation of state law, not federal law.  
2 Nothing in the Constitution of the United States or federal statutes requires Nevada to adopt  
3 controlled-substance law identical to federal controlled-substance law.

4 **IT IS THEREFORE ORDERED** that respondents' motion to dismiss (#9) is **GRANTED**.

5 **IT IS FURTHER ORDERED** that the clerk of the court shall send petitioner a petition for  
6 a writ of habeas corpus pursuant to 28 U.S.C. § 2254 form.

7 **IT IS FURTHER ORDERED** that plaintiff shall sign page 9 of the petition form in the  
8 appropriate locations. Petitioner shall then attach the signed page 9 of the form to the end of his  
9 copy of the petition for a writ of habeas corpus. Petitioner shall then re-file his petition with the  
10 signed page 9 of the petition form **within fifteen (15) days** from the date of entry of this order.

11 **IT IS FURTHER ORDERED** that, notwithstanding the provisions of the court's order  
12 directing service (#6), and for the purposes of re-filing the petition only, petitioner need not mail a  
13 copy of the re-filed petition to respondents.

14 **IT IS FURTHER ORDERED** that respondents shall have thirty (30) days from the date of  
15 electronic service of the re-filed petition to file and serve an answer, which shall comply with Rule 5  
16 of the Rules Governing Section 2254 Cases in the United States District Courts.

17 **IT IS FURTHER ORDERED** that petitioner's motion for reconsideration (#11) is  
18 **DENIED**.

19 **DATED** this 10th day of September, 2014.

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23 Gloria M. Navarro, Chief Judge  
24 United States District Court  
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