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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Phillip Smith,  
Petitioner  
v.  
F.N.U. Collins, et al.,  
Respondents

**2:14-cv-00483-JAD-NJK**

**Order Granting Motion to Extend  
Time**

[ECF No. 40]

10 Phillip Smith, who is represented by counsel, moves for an extension of time to notify the  
11 court how he wishes to proceed in this action. Good cause appearing,

12 IT IS HEREBY ORDERED that Smith's motion for extension of time [ECF No. 40] is  
13 **GRANTED**. Smith must file a sworn declaration by **May 13, 2017**, advising the court either (1) that  
14 he is voluntarily abandoning his unexhausted claims and will proceed on the exhausted claims only  
15 or (2) that he will return to state court to exhaust his unexhausted claims. If Smith fails to make an  
16 election by this deadline, this case may be dismissed.

17 IT IS FURTHER ORDERED that if Smith elects to abandon his unexhausted ground,  
18 respondents will have 30 days from service of the declaration of abandonment to answer Smith's  
19 remaining grounds for relief. The answer must contain all substantive and procedural arguments for  
20 all surviving grounds of the petition and must comply with Rule 5 of the Rules Governing  
21 Proceedings in the United States District Courts under 28 U.S.C. § 2254.

22 IT IS FURTHER ORDERED that Smith will have 30 days from service of respondents'  
23 answer to file a reply.

24 Dated this 13th day of March, 2017.

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Jennifer A. Dorsey  
United States District Judge