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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DEVELLE MERRITTE,

Petitioner,

vs.

STATE OF NEVADA, et al.,

Respondents.

Case No. 2:14-cv-00587-JCM-NJK

ORDER

The court directed petitioner to show cause why the court should not dismiss the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 because petitioner had not exhausted his available state-court remedies. Order (#6). Petitioner has not responded within the allotted time. The court will dismiss the action.

Reasonable jurists would not find the court's determination to be debatable or wrong, and the court will not issue a certificate of appealability.

This action does not toll the one-year period of 28 U.S.C. § 2244(d). Duncan v. Walker, 533 U.S. 167, 181-82 (2001). If petitioner files a new federal habeas corpus petition, then he is responsible for ensuring that it is timely.

IT IS THEREFORE ORDERED that this action is **DISMISSED** without prejudice for failure to exhaust state-court remedies. The clerk of the court shall enter judgment accordingly.


IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

IT IS FURTHER ORDERED that the clerk shall add Catherine Cortez Masto, Attorney General for the State of Nevada, as counsel for respondents.

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IT IS FURTHER ORDERED that the clerk shall electronically serve upon respondents a copy of the this order. No response is necessary.

DATED: November 14, 2014.



JAMES C. MAHAN
United States District Judge