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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MARC MCCURDY,

Petitioner,

vs.

BRIAN WILLIAMS, et al.,

Respondents.

Case No. 2:14-cv-00713-JCM-GWF

ORDER

Currently before the court is a motion for a stay (#6). Petitioner asks the court to stay the action while he pursues a claim of a violation of the Fourth Amendment through a state habeas corpus petition. The court may stay a mixed petition, containing grounds both exhausted and unexhausted in the state courts, if petitioner shows that he has “good cause for his failure to exhaust, his unexhausted claims are potentially meritorious, and there is no indication that the petitioner engaged in intentionally dilatory litigation tactics.” Rhines v. Weber, 544 U.S. 269, 278 (2005). A stay is not appropriate at this time. The petition for a writ of habeas corpus does not contain this Fourth Amendment claim, and the motion (#6) does not contain any description of the claim beyond a citation to a decision of the Supreme Court of the United States. The court has no means of determining whether the claim has potential merit. If petitioner wishes to present a Fourth Amendment claim to this court, then he will need to file an amended petition that contains the claim. The court makes no comment on whether the claim would be subject to any procedural defenses. He also will need to re-allege in the amended petition all the other counts in the original petition, or they will be waived. King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987).

