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## UNITED STATES DISTRICT COURT

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## DISTRICT OF NEVADA

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8 JESSICA BARRAZA,

9 Petitioner,

2:14-cv-01185-APG-PAL

10 vs.

11 J. GENTRY, *et al.*,**ORDER**

12 Respondents.

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15 This action is a petition for writ of habeas corpus, by Jessica Barraza, who was convicted of  
16 second degree murder in 2007 in Nevada's Eighth Judicial District Court. *See* Petition for Writ of  
17 Habeas Corpus (ECF No. 1), pp. 1-2. The court received Barraza's *pro se* habeas corpus petition on  
18 July 18, 2014.

19 On December 1, 2014, respondents filed a motion to dismiss (ECF No. 4). Respondents  
20 move to dismiss Barraza's petition "on the ground of vagueness and [Barraza's] failure to comply  
21 with Habeas Corpus Rule 2." Motion to Dismiss (ECF No. 4), p. 1. Rule 2(c) of the Rules  
22 Governing Section 2254 Cases in the United States District Courts requires that the habeas petition  
23 "must (1) specify all the grounds for relief available to the petitioner; (2) state the facts supporting  
24 each ground; (3) state the relief requested; (4) be printed, typewritten, or legibly handwritten; and  
25 (5) be signed under penalty of perjury by the petitioner or by a person authorized to sign it for the  
26 petitioner under 28 U.S.C. § 2242." Respondents argue: "The petition in this matter is wholly

1 devoid of any facts for any of the claims whatsoever, simply referring to an outside ‘supplemental  
2 brief’ that does not accompany the petition.” *Id.* at 2. Respondents argue that Barraza’s petition  
3 should be dismissed, or, alternatively, she should be required to file and serve an amended petition.  
4 *Id.*

5 In response, Barraza argues that her habeas petition is supported by three briefs, which  
6 provide the information required by Rule 2. Opposition to State’s Motion to Dismiss Writ of Habeas  
7 Corpus (ECF No. 6), p. 3.

8 The electronic file for this action does include three briefs filed by Barraza in support of her  
9 habeas petition. Those briefs, entitled “Brief in Support of Writ of Habeas Corpus,” “Supplemental  
10 Brief One in Support of Writ of Habeas Corpus,” and “Supplemental Brief Two in Support of Writ  
11 of Habeas Corpus,” are filed as attachments to the habeas petition at ECF No. 1 in the electronic  
12 record. Respondents’ counsel should have access to those documents in the electronic file (if not,  
13 counsel should contact the clerk of the court to obtain access to those documents or copies of them).

14 The court has reviewed Barraza’s petition, and the supporting briefs attached to it, and finds  
15 that, as a matter of form, the petition, with the supporting briefs, plainly satisfies the requirements of  
16 Rule 2, and warrants a response from respondents. Respondents’ motion to dismiss will be denied.

17 Respondents will be granted time to file and serve a further response to the habeas petition in  
18 this action. Under the circumstances, that further response may be a motion or an answer. Whether  
19 it is a motion or an answer, however, it should include all procedural defenses that respondents wish  
20 to assert in this action (*e.g.* statute of limitations, exhaustion, procedural default).

21 **IT IS THEREFORE ORDERED** that respondents’ Motion to Dismiss Petition for Writ of  
22 Habeas Corpus (ECF No. 4) is **DENIED**.

23 **IT IS FURTHER ORDERED** that respondents shall, within **45 days** from the date that this  
24 order is filed, file and serve a further response to the petition for writ of habeas corpus (ECF No. 1)  
25 as discussed above.

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**IT IS FURTHER ORDERED** that, if respondents file an answer, petitioner shall have 45 days from the date on which the answer is served to file and serve a reply.

**IT IS FURTHER ORDERED** that, if respondents file a motion to dismiss, petitioner shall have 45 days to respond to the motion to dismiss, and respondents shall, thereafter, have 30 days to file a reply in support of the motion.

Dated this 29<sup>th</sup> day of May, 2015.



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UNITED STATES DISTRICT JUDGE