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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

PHILLIP A. COVARRUBIAS,

Petitioner,

vs.

STATE OF NEVADA, et al.,

Respondents.

Case No. 2:14-cv-01200-GMN-PAL

**ORDER**

11           Petitioner has submitted an application to proceed in forma pauperis (#3) and a petition for a  
12 writ of habeas corpus pursuant to 28 U.S.C. § 2254 (#1). The court denies the application (#3)  
13 because petitioner has paid the filing fee. The court has reviewed the petition. The court will refer  
14 the petition to the court of appeals because it is a second or successive petition.

15           Petitioner challenges the validity of his judgment of conviction in State v. Covarrubias, Case  
16 No. 03C190643, in the Eighth Judicial District Court of the State of Nevada. Petitioner was  
17 convicted of one count of attempted sexual assault and one count of child abuse and neglect with  
18 substantial mental harm. Petitioner challenged the same judgment of conviction in Covarrubias v.  
19 Palmer, Case No. 3:07-cv-00120-LRH-RAM. In that action, this court denied the habeas corpus  
20 petition on the merits and denied a certificate of appealability. Petitioner appealed the denial. The  
21 Court of Appeals for the Ninth Circuit denied a certificate of appealability.

22           The petition in this action is a second or successive petition as defined in 28 U.S.C.  
23 § 2244(b). Petitioner must first obtain authorization from the court of appeals before this court can  
24 consider his petition. 28 U.S.C. § 2244(b)(3). Petitioner has applied for authorization before in the  
25 court of appeals, Covarrubias v. Legrand, Case No. 12-72763. The court of appeals denied the  
26 application.

27           Petitioner has submitted a motion for appointment of counsel (#4). The court denies the  
28 motion because the court is referring the action to the court of appeals.

1           **IT IS THEREFORE ORDERED** that the application to proceed in forma pauperis (#3) is  
2 **DENIED** as moot.

3           **IT IS FURTHER ORDERED** that the motion for appointment of counsel (#4) is  
4 **DENIED**.

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

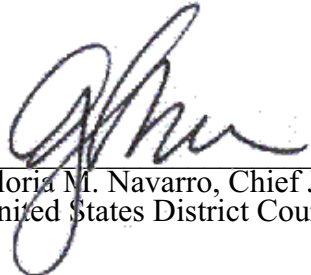
7           **IT IS FURTHER ORDERED** that the clerk shall electronically serve respondents with a  
8 copy of the petition (#1) and a copy of this order. No response by respondents is necessary.

9           **IT IS FURTHER ORDERED** that, pursuant to Circuit Rule 22-3(a), the clerk of the court  
10 shall refer this action to the United States Court of Appeals for the Ninth Circuit.

11           **IT IS FURTHER ORDERED** that the clerk of the court shall administratively close this  
12 action.

13           **DATED** this 20th day of October, 2014.

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Gloria M. Navarro, Chief Judge  
United States District Court