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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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RENE F. FERNANDEZ,

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Petitioner,

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Case No. 2:14-cv-01595-JAD-CWH

13

vs.

ORDER

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JAMES GREG COX, *et al.*,

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Respondents.

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This is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner. Neither a filing fee nor an application to proceed *in forma pauperis* was submitted with the petition. Petitioner must either submit the \$5.00 filing fee for habeas petitions or an application to proceed *in forma pauperis*.

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Due to the lack of an *in forma pauperis* application or filing fee, the present action will be dismissed without prejudice to the filing of a new petition in a new action with a pauper application with all required attachments. It does not appear from the papers presented that a dismissal without prejudice would result in a promptly-filed new petition being untimely. In this regard, plaintiff at all times remains responsible for calculating the running of the limitations period as applied to his case and properly commencing a timely-filed habeas corpus action.

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IT THEREFORE IS ORDERED that this action is **DISMISSED WITHOUT PREJUDICE** to the filing of a **new petition in a new action**.

1 **IT IS FURTHER ORDERED** that the Clerk of the Court shall send petitioner two copies
2 of an *in forma pauperis* application form for a prisoner, one copy of the instructions for the same,
3 two copies of a blank 28 U.S.C. § 2254 habeas petition form, and one copy of instructions for the
4 same.

5 **IT IS FURTHER ORDERED** that petitioner may file a new petition in a new action, but he
6 may not file any more documents in this action.

7 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**. Reasonable
8 jurists would not find the dismissal of the improperly-commenced action without prejudice to be
9 debatable or wrong.

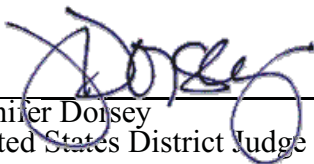
10 The Clerk of the Court shall enter judgment accordingly.

11 Dated this 7th day of October, 2014.

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Jennifer Dojsey
United States District Judge

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